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THE ACTS

PASSED BY THE

Lieutenant-Governor of Bengal

IN COUNCIL

IN THE YEARS 1868—1870.

Published by authority of the Council.

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TITLES OF THE ACTS

PASSED BY

The Lieutenant-Governor of Bengal in Council

IN THE YEARS 1868, 1869, and 1870.

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" II.—An Act to amend the District Municipal Improvement Act.

" III.—An Act to amend the law respecting appeals in cases under Regulation VII of 1822.

" IV.—An Act to amend the provisions of Act IX of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers, by alluvion or dereliction, within the Provinces of Bengal, Behar, and Orissa.)

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ACT No. I. OF 1868.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 12th May 1868, and of the Governor-General on the 30th idem.)

An Act to make further provision for the Survey of Steam Vessels plying within the Provinces subject to the Lieutenant-Governor of Bengal.

Preamble.

WHERAS it is expedient to make further provision for the survey by competent Surveyors, and the management by competent Engineers, of Steam Vessels plying on the rivers or waters within the Provinces subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

Steam vessels to be liable to survey.

I. For Section I of Act V of 1862, passed by the Lieutenant-Governor of Bengal in Council, entitled An Act to provide for the periodical survey of Steam Vessels in the Port of Calcutta, shall be substituted the words following:—

"All Steam vessels plying on any of the rivers or waters within the Provinces subject to the Lieutenant-Governor of Bengal, except Steam Vessels which may ply between some port within the said Provinces, and some port not in British India, shall be liable to be surveyed twice in every year in the manner prescribed in the said Act V of 1862."

Power to appoint Ports of Survey.

II. It shall be lawful for the Lieutenant-Governor, by an order to be published in the *Calcutta Gazette*, to appoint any ports or places, in the Provinces subject to his government, to be Ports of Survey for the purposes of the said Act V of 1862, and of this Act.

Other Ports of Survey added to Calcutta in former Act.

III. In Sections III, V, VI, and VII of the said Act V of 1862, the words "or any other Port of Survey" shall be deemed and taken to be inserted therein after the word "Calcutta" wherever the said word may occur in the said Sections; and from and after the passing of this Act, the said Sections shall be read and construed as if the said words had been so inserted.

Absence from and arrival at Port of Survey to be substituted for absence from and return to Calcutta.

IV. In Section XII of the said Act V of 1862, the words "shall not be in any Port of Survey" shall be substituted for the words "is absent from the Port of Calcutta;" and the words "arrival at some Port of Survey" shall be substituted for the words "return to the Port of Calcutta;" and the said Section shall, from and after the passing of this Act, be read and construed as if the said words so to be substituted had been originally inserted in the said Act, instead of the said words for which they are so to be substituted.

Power to impose additional fees.

V. It shall be lawful for the Lieutenant-Governor from time to time, by an order to be published in the *Calcutta Gazette*, to direct that in any Port of Survey other than Calcutta, in addition to the fees imposed by the said Act V of 1862, there shall be paid, for every survey of a Steam Vessel in such port, by the owner or Master of such Steam Vessel such further fee, for or towards the expense of the journey of a Surveyor to such port, as in such order shall be set forth; and from time to time in like manner to alter, vary, or revoke any such order; and every fee so to be payable shall be recoverable by the ways and means in the said Act provided for the recovery of the fees thereby imposed.

Power to investigate causes of explosions.

VI. Whenever any explosion shall occur on board of any Steam Vessel subject to this Act, it shall be lawful for the Lieutenant-Governor, if he shall think fit, to direct that an investigation of the cause of such explosion be made by such person or persons as he shall think fit. The person or persons authorized by the Lieutenant-Governor to make such investigation may enter

into and upon such Steam Vessel with all necessary workmen and laborers, and remove any portion of such Steam Vessel, or of the machinery thereof, for the purpose of such investigation, and shall report the cause of such explosion.

Examinations to be instituted for Engineers.

VII. Examinations shall be instituted for persons who intend to become Engineers of Steamers, or who wish to procure Certificates of Competency hereinafter mentioned.

The Examiners and Rules of Examination to be provided.

VIII. The Lieutenant-Governor, or any Board or Officer duly authorized by him in that behalf, shall, from time to time, nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination, and may make rules for the conduct of such examinations, and as to the qualifications to be required, and the fees to be paid by all applicants for examination.

Certificates of Competency to be given.

IX. The Lieutenant-Governor, or such Board or Officer as aforesaid, shall deliver to every applicant who is reported by the Examiners to have passed the examination satisfactorily, a certificate (hereinafter called a "Certificate of Competency") to the effect that he is competent to act as Engineer.

Certificates of Service to be given.

X. Every person who, before the passing of this Act, has served for a period of not less than one year as first or only Engineer in any Steam Vessel, or who has attained or shall attain the rank of First Class Assistant Engineer in the Service of Her Majesty, shall be entitled to a Certificate of Service. Each of such Certificates of Service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered, and the Lieutenant-Governor, or such other authority as aforesaid, shall deliver such Certificates of Service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank, or to have served as aforesaid; and, upon their giving a full and satisfactory account of the particulars aforesaid, and on payment of

such fees as the Lieutenant-Governor shall, by an order published in the *Calcutta Gazette*, from time to time direct.

No Certificate of Survey if vessels have not a Certificated Engineer.

XI. No Certificate of Survey under the said Act V of 1862, or of this Act, shall be granted for any steam vessel, unless it shall have as its Engineer an Engineer possessing a Certificate of Competency or a Certificate of Service.

Penalty for plying without a Certificated Engineer.

XII. The Owner, and also the Master, of any Steam Vessel subject to this Act, which shall ply on any of the rivers or waters in the Provinces subject to the Lieutenant-Governor of Bengal, without having in charge of the engines thereof an Engineer possessing a Certificate of Service or a Certificate of Competency, shall be liable to a fine not exceeding five hundred Rupees.

Power to exempt private Steam Vessels.

XIII. It shall be competent to the Lieutenant-Governor of Bengal to exempt from the operation of Sections XI and XII any Steamer which does not ply with passengers or goods, or as a Steam Tug for hire.

Withdrawal of Certificate.

XIV. It shall be lawful for the Lieutenant-Governor, or such Board or authority as aforesaid, in case of the misconduct, negligence, or incompetency of any Engineer possessing a Certificate of Competency or a Certificate of Service, to cancel such Certificate, or to suspend the same for such time as to him or them shall seem fit.

English Certificates to be available.

XV. Every Engineer's Certificate of Competency or Service, which may be granted by any competent authority in the United Kingdom, shall have, in all respects, the same validity and effect as if the same had been granted under the provisions of this Act.

Certificates to be made in duplicate.

XVI. All Certificates, whether of Competency or Service, shall be made in duplicate, and one part shall be delivered to the person entitled to the Certificate, and the other shall be kept and recorded as the Lieutenant-Governor shall direct. A note of all orders made for

cancelling, suspending, altering, or otherwise affecting any Certificate in pursuance of the powers herein contained, shall be entered in the record of Certificates.

Copy of Certificate to be delivered.

XVII. Whenever any Engineer proves to the satisfaction of the Lieutenant-Governor, or of such other authority as aforesaid, that he has, without fault on his part, lost or been deprived of any Certificate already granted to him, a copy of the Certificate to which, by the record so kept as aforesaid, he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.

Short Title.

XVIII. In citing this Act it shall be sufficient to use the expression. "The Steam Boat Survey Amendment Act, 1868."

Commencement of Act.

XIX. This Act shall commence and take effect, as to Sections XI and XII upon the 1st day of September 1868; and as to the residue thereof, on the 1st day of June 1868.

Construction of Act.

XX. This Act shall be read together with, and as part of, the said Act V of 1862.

ACT No. II. OF 1868.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 16th May 1868, and of the Governor-General on the 30th idem).

An Act to amend the District Municipal Improvement Act.

Preamble.

WHEREAS it is expedient to exempt owners of unoccupied houses, in places subject to the provisions of the District Municipal Improvement Act, from some portion of the rate to which they are now liable in respect of such houses; it is enacted as follows:—

Remission on account of vacant houses.

I. When any house in any place shall have been vacant for sixty consecutive days during any year, the Municipal Commissioners shall remit so much, not exceeding one-half of the rate for that year, as may be proportionate to the number of days during which such house may have remained unoccupied. Provided that notice in writing shall have been given to the Municipal Commissioners of the vacancy of such house, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice to the end of the quarter then current. Provided also that no notice of vacancy given under this Section shall have effect beyond the end of the quarter in which it may be given, unless a similar notice of continued vacancy be given within the first fifteen days of the following quarter.

Proviso.

Construction.

II. This Act shall be read with, and as part of, the "District Municipal Improvement Act."

ACT No. III OF 1868.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 2nd June 1868, and of the Governor-General on the 16th idem.)

An Act to amend the Law respecting Appeals in cases under Regulation VII of 1822.

Preamble.

WHEREAS it is expedient that the period for presenting appeals under Section XXIX of Regulation VII of 1822 should be assimilated to the period for bringing appeals in other cases pending before the Revenue Authorities: It is enacted as follows :—

Appeals under Section 29 Regulation VII. 1822 to be presented within one month from date of decision appealed against.

I. No petition of appeal presented under the provisions of Section XXIX of Regulation VII of 1822, shall be received after the expiration of thirty days from the date of the decision against which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented. The days shall be reckoned from and exclusive of the day on which the decree was passed, and also exclusive of such time as may be requisite for obtaining a copy of the order appealed against.

Commencement of Act.

II. This Act shall commence and take effect from the 1st day of September 1868.

PRICE SIX PIES.

ACT No. IV. OF 1868.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 8th June 1868, and of the Governor-General on the 24th idem).

An Act to amend the provisions of Act IX of 1847 (An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar, and Orissa).

Preamble.

WHEREAS it is expedient to amend the provisions of Act IX of 1847; It is enacted and declared as follows:—

Repeal of Section.

I. Section VII of the said Act IX of 1847 is hereby repealed

Accessions to island to be considered increment thereto.

II. It is hereby declared that when any island shall, under the provisions of Clause 3 Section IV of Regulation XI of 1825 of the Bengal Code, be at the disposal of Government, all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of Government.

Newly thrown up islands to be assessed.

III. Whenever it shall appear to the local Revenue authorities that an island has been thrown up in a large and navigable river liable to be taken possession of by Government under Clause 3 Section IV of Regulation XI of 1825 of the Bengal Code, the local Revenue authorities shall take immediate possession of the same for Government, and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be final. Provided, however, that any party

aggrieved by the act of the Revenue authorities in taking possession of any island as aforesaid, shall be at liberty to contest the same by a regular suit in the Civil Court.

Subsequent junction to mainland not to affect Government right.

IV. Any island of which possession may have been taken by the local Revenue authorities on behalf of the Government under Section III of this Act, shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken.

Power to apply for ways across islands.

V. Whenever an island, of which possession shall have been taken by Government under Section III of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession of the Government, may apply to the Collector to take measures for the construction of ways, paths, and roads on the island : the costs thereof to be equally divided between the applicant and the Government.

Applicant for ways to deposit money, and ways to be made.

VI. Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths, and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

Costs of ways how to be borne

VII. In every case the applicant shall be liable to pay and make good to the Government one-half of the costs of laying out and constructing such ways, paths, and roads as aforesaid, and any moneys due from the applicant under the provisions of this Section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

Ways to be public.

VIII. Every way, road, and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway,

ACT No. V OF 1868.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENNGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 30th June 1868, and of the Governor-General on the 9th July 1868.)

An Act for subjecting the Southern portion of Hastings to the provisions of the Municipal Acts of Calcutta.

Preamble.

WHEREAS it is expedient that the various powers conferred upon the Justices of the Peace for the Town of Calcutta should be exercised in the Southern portion of Hastings, formerly called Coolie Bazar, and that all taxes, rates, assessments, and impositions, leviable in other portions of Calcutta, should be extended thereto; It is enacted as follows:—

Southern portion of Hastings to be subject to Calcutta Municipal Acts.

I. From and after the commencement of this Act, all that portion of Hastings, formerly called Coolie Bazar, bounded on the North by Clyde Row, on the South by Tolly's Nullah, on the East by the road leading from Kidderpore bridge to Clyde Row, and on the West by the Strand Road, shall be, and shall be deemed to be, a portion of the Town of Calcutta, and all the provisions in the several Acts and portions of Acts in the Schedule hereto set forth shall apply thereto, so far as the same respectively may, for the time being, be in force in the Town of Calcutta, any thing contained in Section XXII of Act IX of 1867, passed by the Lieutenant-Governor of Bengal in Council, to the contrary notwithstanding.

Commencement of Act.

II. This Act shall commence and take effect upon the first day of July 1868.

III. This Act shall be read with, and as part of, Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to vest the property of the Town of Calcutta and the management of its Municipal affairs in a Corporation, and to make better provision for the Conservaney and Improvement of the Town, and for the levying of rates and taxes therein.

Construction.

IV. This Act shall be called "The Hastings Municipal Act, 1868."

Short Title.

Schedule.

No. of Act.	Title of Act.	How far applicable.
Act VI of 1863, (B. C.)...	An Act to vest the property of the Town of Calcutta and the management of its Municipal affairs in a Corporation, and to make better provision for the Conservancy and Improvement of the Town, and for the levying of rates and taxes therein.	The whole Act save so far as modified by subsequent Acts.
Act VI of 1866, (B. C.)...	An Act to amend Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council.	
Act I of 1867, (B. C.) ...	An Act to explain and amend Act VI of 1863, of the Lieutenant-Governor of Bengal in Council.	
Act IX of 1867, (B. C.) ..	An Act to amend Act VI of 1863, and Act VI of 1866, passed by the Lieutenant-Governor of Bengal in Council.	The whole Act except Section XXII.
Act XI of 1867, (B. C.)...	An Act to provide from rates to be levied in the Town of Calcutta the expense of the Police of that Town, and to enable the Corporation of the Justices of the Peace for the Town of Calcutta to apply a portion of the Municipal Fund of the said Town for the support of a Pauper Hospital.	The whole Act.

ACT No. VI of 1868.

Passed by the Lieutenant-Governor of Bengal in Council.

(*Received the assent of the Lieutenant-Governor on the 7th July* 1868, *and of the Governor-General on the* 25*th idem.*)

An Act to provide for the better regulation of the Police in Towns under the control of the Lieutenant-Governor of Bengal, and for the Conservancy and Improvement thereof.

Preamble.

Whereas it is expedient to a mend and consolidate the law for the regulation of the Police in Towns, in the Provinces under the control of the Lieutenant-Governor of Bengal, to which the District Municipal Improvement Act may not be extended, and for the Conservancy and Improvement of such Towns; It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the several meanings hereby assigned to them, except where a different intention shall appear from the context (that is to say)—

"Magistrate of the District"

The words "Magistrate of the District" shall mean the chief officer charged with the executive administration of a district in criminal matters by whatsoever designation such officer is called.

"Magistrate."

The word "Magistrate" shall mean the officer exercising all or any of the powers of a Magistrate, and charged with the immediate executive administration in criminal matters in any sub-division of a district, within which any place to which this Act may be extended may be situated by whatsoever designation such officer is called In respect to any such place which is not situated within a sub-division of a district, the powers by this Act conferred on the

Magistrate may be exercised by the Magistrate of the District, or by a Joint-Magistrate.

"House."

The word "House" shall include any shop or warehouse.

"Bazar."

The word "Bazar" shall mean any place of trade at which there is a collection of permanent shops or warehouses.

"Place."

The word "Place" shall mean any town, suburb, bazar, station, or tract of country.

"Town."

The word "Town" in the following sections of this Act shall mean any place to which the provisions of this Act may be extended as hereinafter provided.

"Year."

The word "Year" shall mean the period of twelve months immediately following any date which may from time to time hereafter be fixed by the Government by Notification in the Official Gazette as the commencement of the year for the purposes of this Act.

PART II.

Preliminary.

To what places the Act shall apply.

II. The provisions of this Act shall have effect in every place to which the Government at any time may extend the same by Notification in the Official Gazette.

Act XXVI of 1850, Act XX of 1856, and Act VI of 1867 (B.C.) repealed.

III. When and so soon as this Act may be extended to any place, the provisions of Act XXVI of 1850, and of Act XX of 1856, respectively passed by the Governor-General of India in Council, and of Act VI of 1867 passed by the Lieutenant-Governor of Bengal in Council, shall cease to have effect in such place.

Existing assessment to continue to be levied until revised according to this Act.

Provided, always, that any assessment, rate, or tax which may be in force under the said Acts, or any of them, in any Town at the time when this Act may come into operation

in such Town, shall continue to be levied under the procedure in those Acts until an assessment under the provisions hereinafter contained shall be in force in such Town, and that all the powers and provisions in and by those Acts, or any of them, conferred for the recovery of arrears of assessments, rates or taxes under those Acts or any of them, shall, notwithstanding that this Act may have come into operation in such Town, continue to be in force for the recovery of such arrears until all such arrears shall have been recovered or shall have ceased to be recoverable, and all arrears so collected shall become part of the Town Fund of such Town, and may be expended for any of the purposes of this Act. Provided, also, that any sum which may have been levied, or which may hereafter be levied, in any Town under any of the said Acts in excess of the sum which may be required for the payment of the Police, shall become part of the Town Fund of such Town, and may be expended for any of the purposes of this Act. Provided, further, that no claim on account of arrears under any Act which may be superseded by this Act shall be enforced after three years from the period of such arrears becoming due.

Act not to extend to agricultural villages.

IV. Nothing herein contained shall authorize the extension of this Act to any village inhabited by persons more than one-half of whom may be employed in agriculture only, or dependant for support on persons so employed, or habitually exercising trades and occupations only for the use of persons so employed.

Government may define limits of Town.

V. For the purposes of this Act, the Government may define and declare the limits of any Town, and all occupiers of houses, buildings, and lands within any town, shall be liable to be assessed according to the provisions of this Act. Provided that if any house or building be let out in portions to different persons or be let out to, or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be

Houses let to lodgers how to be assessed.

deemed to be the occupier of such house. Provided, also, that the Magistrate may, at his discretion, exempt from the assessment, or may relieve from the payment of his assessment, any occupier who may be unable from poverty to pay the same, and that no person shall be liable to any assessment under this Act by reason only of his occupancy within the limits of any such Town of arable lands or lands used for pasture only, or by reason only of his occupation of any edifice used only for the purpose of religious worship.

Magistrate may exempt occupiers unable to pay the assessment or rate.

VI. No person shall be assessed by reason only of his being owner of any house, building, or land within any Town, whether such house, building, or land be or be not occupied.

No assessment upon owners.

VII. No person assessed as being occupier of any house, shall be separately assessed in respect of his occupation by himself or his servants of any out-house, building, barn, cook-room, store-room, cow-house, stable, shop, warehouse, orchard, garden, tank, or other appurtenance to such house appertaining, and not separated from such house by land occupied by any other person.

No assessment in respect of appurtenant tenements.

PART III.

Constitution of Police Force.

VIII. All Police Officers appointed or employed in any Town shall be appointed under the provisions of Act V of 1861, passed by the Governor-General of India in Council, or of any other Act which may for the time being be in force for the regulation of the Police in the Police District within which the said Town may be situated, and shall be deemed to be a portion of the Police Establishments under the Government of Bengal, and shall be subject to the provisions of such Acts, except as hereinafter provided.

Police in Towns to be appointed under Act V of 1861.

IX. No Police Officer, who forms part of the strength of the Town Police for which the Estimate mentioned in Section XIV of this Act may have been calculated, shall be liable to serve beyond the limits of the Town, save in execution of duties imposed on him by his employment as a Police Officer of such Town.

Police paid under Act not to be employed beyond Town.

X. As soon as possible after the close of each month, the District Superintendent of Police shall, as regards each Town, present to the Magistrate, in whose jurisdiction such Town may be situated, a Bill showing the actual expenses incurred during the preceding month in the payment of the said Force, and the contingent expenses thereof; and the said Magistrate, on being satisfied that the Bill is substantially in accordance with the Estimate for such Town, shall cause the amount of such Bill to be paid to the District Superintendent from the Town Fund, constituted as hereinafter provided.

Police to be paid monthly.

XI. The total amount which shall be chargeable to the Town Fund for the cost of any Police Force which may be sanctioned by the Government for employment within any Town, including the contingent expenses of such Force, shall not exceed the average rate of one rupee and eight annas per annum for each house in such Town. Provided that the number of Police Officers appointed shall not be greater than one superior officer for every fifteen Constables, and one Constable for every fifty houses.

Maximum amount chargeable on account of Police.

PART IV.

Constitution and application of the Town Fund, and preparation and settlement of Estimates.

XII. The proceeds of every assessment to be levied under this Act in any Town, together with any sums which may be assigned by the Government or by any person for the purposes of this Act, or which may otherwise become applicable to the purposes of this

Constitution of Town Fund.

Act, and all sums which may at the time of the passing of this Act be standing to the credit of any fund under any of the Acts enumerated in Section III of this Act, shall constitute a fund which shall be called the "Town Fund" of such Town, and shall be under the control of the Magistrate, and shall be applied by him for the purposes of this Act.

Application of Town Fund.

XIII. After provision shall have been made out of the Town Fund for the necessary costs of assessment and collection of all sums leviable under this Act, the Town Fund of every Town shall be primarily applied in payment of the amount which, under the provisions of this Act, may be chargeable to such Fund for the cost of the Police Force employed in such Town, and, subject thereto, the same shall be applied in or towards the construction and maintenance of the roads and communications in such Town, in or towards the conservancy and general improvement of the Town, in or towards vaccination, in or towards the establishment and maintenance of Dispensaries or Hospitals, or for all or any of the purposes aforesaid, or otherwise in giving effect to the provisions of this Act.

Police Estimate to be prepared.

XIV. As soon as possible after the close of the fifth month of every year, the Magistrate of every district in which there may be a Town shall prepare, or cause to be prepared, separately as regards each Town in his district, in such form as may from time to time be directed by the Government, a statement showing the total strength of the Police Force as sanctioned by the Government for employment within such Town, under Act V of 1861 or any other Act for the time being in force, and giving an estimate of the expenditure on account of salaries and contingent expenses of the said force during the following year. This statement shall be forwarded to the Magistrate in order that it may be laid before the Town Committee, and incorporated into the aggregate estimate for all purposes of this Act, as hereinafter provided.

Magistrate to prepare an estimate.

XV. As soon as possible after the close of the fifth month of each year, the Magistrate, after consulting the Members of the Town Committee to

be appointed as hereinafter provided, shall prepare a statement in such form as may from time to time be directed by the Government, showing the estimate for the expenditure to be incurred in such Town in the following year for all purposes of this Act, other than the payment of the Police Force, and shall also, after consulting the Members of such Town Committee, add any sum by which there may be reason to believe that the assets of the Town Fund will fall short of the actual expenditure of the year then current.

Magistrate to add amount for contingencies.

XVI. To the estimates prepared under the two preceding sections, the Magistrate, after consulting the members of the Town Committee, shall add a reasonable sum to provide for the contingency of losses from defaulters; and the sums estimated under this and the two preceding sections shall constitute the aggregate estimates for the Town.

Estimates to be published.

XVII. Copies of the aggregate Estimates for any Town which shall have been prepared under the provisions of Sections XIV, XV, and XVI, and if necessary, translations thereof into the vernacular of the district, shall be lodged in the offices of the Magistrate of the district and of the Magistrate, and at some convenient place within such Town. During fourteen days after such Estimates shall have been so lodged in the said offices, of which due notice shall be publicly given, such Estimates and translations in the vernacular of the district, shall be open to inspection at all reasonable times and seasons by any rate-payer of such Town who may desire to inspect the same.

Estimates to be transmitted to Magistrate of District and Commissioner of Division.

XVIII. As soon as is practicable, after the expiration of the said fourteen days, the Magistrate shall transmit to the Magistrate of the District the said Estimates, with any remarks or objections thereupon which may have been recorded by himself or by the Town Committee at a Meeting. The Magistrate of the District, after considering any objections which may have been made, and after having made any alteration in the Estimates in

accordance with such objections which may appear to him advisable, shall transmit to the Commissioner of the Division the said Estimates, together with any remarks or objections made by the Magistrate or the Town Committee, and his own opinion thereon.

Commissioner of Division to decide on Estimates.

XIX. The said Commissioner of the Division shall consider the Estimates so transmitted to him, and may approve or reject, or modify and approve as modified, such Estimates or any part thereof, provided that the total amount of the Estimate passed by him for the cost of Police shall not exceed the maximum which may be levied under this Act for that purpose as prescribed by Section XI, and provided that the total amount of the entire Estimate passed by him for all purposes shall not exceed the maximum prescribed in Section XLIV of this Act.

Amount of approved Estimates to be the amount to be levied under this Act.

XX. The amount passed in such Estimates, when the same shall have been finally approved by the Commissioner of the Division, shall be held to be the total amount required to be levied for the purposes of this Act for the year for which such Estimate shall have been presented.

Power to extend Act during currency of year.

XXI. Whenever the Government shall extend this Act to any Town, it shall be lawful for the Government by an order to declare the respective dates after which the several Estimates to be prepared in pursuance of Sections XIV and XV of this Act shall, for the first time, be prepared in such Town, and such Estimates shall accordingly be prepared at such periods; and such assessments and proceedings shall be had thereupon as herein are provided with respect to the assessments and proceedings to be had upon Estimates prepared as soon as possible after the close of the fifth month in any year. It shall also be lawful for the Government to declare the date from which the assessment to be made under the provisions of this Act shall first take effect. Provided that the amount of tax to be levied, in respect of any portion of the year which shall remain unexpired on the date from which such first assessment may take

effect, shall not bear a greater proportion to the maximum amount leviable under this Act on account of a whole year, than such unexpired portion of a year shall bear to a whole year.

PART V.

Constitution and duties of Town and Ward Committees.

Town Committees to be appointed.

XXII. So soon as this Act comes into operation in any Town, there shall be appointed not less than five persons, being owners of lands, houses, or buildings in such Town, or carrying on business therein, or residing in such Town, or within five miles from some part of the boundary thereof, to be Members of the Town Committee of such Town.

Power to appoint Ward Committees.

XXIII. It shall be lawful for the Magistrate, in case he shall see fit so to do, to divide any Town into Wards, and thereupon there shall be appointed for each Ward of such Town not less than three persons qualified to be Members of the Town Committee thereof, whether such persons be or be not Members of the Town Committee for the time being, to be Members of the Ward Committee of such Ward.

Mode of appointing Committees.

XXIV. The Members of every Town Committee and Ward Committee shall from time to time be nominated and appointed by such persons and in such manner as shall be directed by any orders which may be from time to time passed in that behalf by the Government of Bengal; and unless, and until, such orders shall be passed, shall be nominated and appointed by the Magistrate of the District with the sanction of the Commissioner of the Division. Provided

Proportion of Official Members.

that not more than one-third (omitting fractions) of the whole number of the Town Committee shall be persons holding in the Judicial, Police, or Revenue Departments of the Government Service, salaried offices of which the functions are exercised within the District in which the town is situated, unless such persons be elected to be Members of such Committee otherwise than by appointment of the Government or of any officer of Government.

Power to appoint *ex-officio* Members.

XXV. Subject to the above restrictions as to numbers, the Government may appoint, by notification in the *Calcutta Gazette*, that the persons for the time being exercising the functions of the offices to be named in such notification, shall be *ex-officio* Members of the Committee for every Town to which the official functions of the Members so appointed may extend.

Power to elect President and Vice-President.

XXVI. Subject to the provisions hereinafter contained, every Committee shall elect one of its Members to be Chairman and another to be Vice-Chairman. Such appointments shall have effect from the date of appointment, and for one year computed from the first day of the year next following the date of such appointment.

Who to preside at Meetings of the Committee.

XXVII. The Chairman, or, in his absence, the Vice-Chairman, shall preside at every Meeting of the Town Committee ; and in the absence of both the Chairman and Vice-Chairman the Town Committee, and in all cases every Ward Committee, shall choose some one of their number to preside. In cases of equality of votes, the President shall have a casting vote, and all questions which may come before a Committee at any Meeting shall be decided by a majority of votes.

Quorum.

XXVIII. No business shall be transacted at a Meeting of a Committee unless at least three Members of the Committee be present.

The Chairman or Vice-Chairman to exercise, with certain exceptions, the powers of the Committee.

XXIX. The Chairman shall, for the transaction of the business connected with, or making any order authorized by this Act, exercise all the powers vested by this Act in the Town Committee : and it shall be lawful for the said Chairman by order in writing, to empower the Vice-Chairman also to exercise all or any of the said powers. Provided that it shall not be lawful for the Chairman or Vice-Chairman to exercise any power which it is by this Act expressly declared shall be exercised by the Committee at a Meeting, save according to the provisions of Section XL.

Power to appoint Secretary.

XXX. Every Town Committee may appoint a Secretary of such Committee.

Rotation of Members.

XXXI. When a Town Committee or Ward Committee shall for the first time be appointed in any Town or any Ward, one-third of the whole number of Members thereof shall retire at the end of one year, and another third of the whole number at the end of two years, and the rest at the end of three years, to be computed from the first day of the year next following the date of the appointment of such Committee. The Members who shall retire at the end of the first and second years, respectively, shall be decided by lot. But nothing in this Act shall prevent any person qualified as in Section XXII appears from being re-appointed to serve on a Town Committee either immediately on his retirement or at any other time.

Mode of calculating whole number of Committee.

XXXII. In calculating the whole number of Members contained in a Town Committee for the purposes of Sections XXXI and XXXIII, all ex-officio Members, and the Magistrate when he may be a Member of such Committee, shall be excluded, and such ex-officio Members and Magistrate shall remain Members of such Committee so long as they continue to hold the respective offices by virtue of which they are respectively Members of such Committee.

Calculation of number of Members to retire annually.

XXXIII. The number of Members to retire in each year, in case the whole number of Members ascertained as aforesaid be not evenly divisible by three, shall be ascertained by reference to Schedule (A) hereto annexed.

Appointment of new Members.

XXXIV. As soon as possible after the estimates for the following year shall have been submitted as provided in Section XVIII of this Act, there shall be appointed in every Town, to serve from the day of the commencement of the year then next ensuing, as Members of every Town Committee and Ward Committee thereof, such number of persons qualified as in Section XXII appears, as shall

be equal to the number of Members of such Town Committee or Ward Committee whose functions shall cease upon the last day of the year then current.

Power to fill vacancies.

XXXV. Whenever any Member of a Town Committee or of a Ward Committee shall, during the term for which he has been appointed, die or be removed, or be discharged from his said office, or shall refuse or decline or become incapable to act therein, another person, qualified as in Section XXII appears, shall be appointed to serve upon such Town Committee or Ward Committee, for the residue of the time for which the person so dying, or being removed or discharged, or d clining, or becoming incapable to act as aforesaid, shall have been appointed.

Member of Committee removable on application of tax-payers.

XXXVI. If any number, not less than one-third, of the persons who may be taxed in any Town or Ward for which a Committee shall be appointed, and whose assessments shall have been fully paid up, shall make an application in writing to the Magistrate of the District for the removal of any Member of the Committee appointed for such Town or Ward, the Government, if it think proper so to do, may remove such Member from the Committee.

Power to remove Members of Committee.

XXXVII. It shall be lawful for the Government, for any cause which it may deem sufficient, to remove any Member of any Town Committee or Ward Committee.

Duties of Town Committee.

XXXVIII. The duties of every Town Committee appointed as hereinbefore provided shall be—

(1) To consult and advise with the Magistrate in regard to the arrangements and establishments required for the assessment and collection of the tax to be imposed in the Town; the works to be undertaken for the construction, maintenance, and improvement of roads and communications; the measures to be adopted for the conservancy and general improvement of the Town; and generally in regard to the application of so much of the Town

Fund as may be available for purposes other than the payment of the Police; and in preparing the Estimates for the purposes of this Act other than the payment of the Police as hereinbefore provided:

(2) To examine the aggregate Estimates after they have been prepared under Section XVI of this Act, and to record their remarks or objections thereto for the consideration of the Magistrate of the District and the Commissioner of the Division:

(3) In any Town in which Ward Committees may not have been appointed, to make the assessment on the inhabitants of the Town as afterwards prescribed in this Act, and to revise the same when required as provided in this Act:

(4) To examine the accounts of the Town Fund when laid before them according to the provisions of this Act, and to record remarks thereupon for the consideration of the Magistrate of the District and the Commissioner of the Division:

(5) To perform any of the duties and to exercise any of the powers of the Magistrate under this Act, which may be imposed and conferred on them by the Government of Bengal under Section XLII of this Act.

Duties of Ward Committees.

XXXIX. Whenever Ward Committees shall be appointed in any Town, the duty of each Ward Committee shall be to make the assessment prescribed by Section XLVIII upon the inhabitants of the Ward for which it is appointed, and to revise the same when required, as provided in Section XLIX of this Act; and in such case the Town Committee shall not make any such assessment or any revision under the said Section.

If Committee refuse or omit to act, Magistrate may assume their functions.

XL. If a Town Committee or a Ward Committee refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform any duty legally required of it, the Magistrate may himself perform that duty, and exercise the functions of such Town Committee or of such Ward Committee, and may appoint such paid officers as he may require to

perform such duties and exercise such functions on his behalf; and all acts done and orders passed by the Magistrate while exercising such functions, shall have the force of acts done and orders passed by such Town Committee or Ward Committee. Provided that the functions of such Committee shall not thereby absolutely cease and determine, but may be resumed at any time, but not so as to invalidate any act done by the Magistrate under this Section.

Power to appoint Magistrate to be Chairman of Committee.

XLI. Notwithstanding anything to the contrary in Section XXVI or in any other section of this Act contained, the Government may appoint the Magistrate to be a permanent member and Chairman of the Town Committee: and it shall be competent to such Chairman, although he may not have been present at a meeting, to give his vote in writing on any subject discussed at a meeting of the Committee on which the votes of the members who attended the meeting shall have been equally divided.

Certain Committees to have powers of Magistrate in certain cases.

XLII. When the Government under the preceding section may have appointed the Magistrate to be Chairman of a Town Committee, it shall be competent to the Government to declare that all or any of the powers and authorities which are vested in the Magistrate and the duties which are imposed upon him by the Sections enumerated in Schedule (B) to this Act annexed, or by any of them, shall be vested in and exercised by the Town Committee at a meeting; and that all or any of the powers and authorities vested in the Magistrate and the duties imposed on him by the sections enumerated in Schedule (C) to this Act annexed, shall be vested in and performed by the Town Committee; and with respect to any matter which may be so transferred, the powers, authorities, and duties of the Magistrate shall cease except as provided in Section XL of this Act. Provided, always, that nothing herein contained shall be deemed to confer upon any Town Committee any power to impose a fine.

Certain Town Committees to be Corporations.

XLIII. Every Town Committee of which the Government shall appoint the Magistrate to be the Chairman shall be a Corporation, and shall be called the "Town Committee" of the Town for which it is appointed, and shall have a common seal, bearing the name of such Corporation, and shall execute all documents and writings by affixing such common seal thereto.

PART VI.

Of the Nature of the Tax to be levied, and of its Assessment.

Nature of tax to be levied.

XLIV. The tax to be levied in any Town for the purposes of this Act shall be an assessment according to the circumstances, and the property to be protected, of the persons liable to the same: provided that the total sum to be raised by such tax in any year shall not exceed the sum which would be produced by an average rate of two rupees and four annas per annum for each holding; and the amount assessed in respect to any one holding shall not be more than seven rupees per mensem.

Power to order assessment.

XLV. As soon as the Estimates for any year shall have been approved as provided in Section XIX of this Act, the Magistrate of the District shall require, by an order in the form in Schedule (D), that an assessment under the provisions of this Act be made on all who are liable to it. Provided that if the Town Committee shall not, within the period provided in Section XVII of this Act, have recorded any objection against the Estimates as published by the Magistrate, or if any objection which may have been so made shall have been withdrawn, it shall be lawful for the Magistrate of the District to make the order aforesaid immediately on the expiration of the said period, and without waiting for the approval of the Estimates by the Commissioner of the Division. Every such order shall, so soon as conveniently may be after it is made, be filed in the Office of the Magistrate.

Apportionment of assessment among several Wards.

XLVI. So soon as reasonably may be, after any such order shall have been filed in the Office of the Magistrate, such Magistrate shall, in case the Town be divided into Wards, require the Town Committee to apportion among the several Wards of the Town the total amount of the Estimates, so as to determine the portion of the entire Estimates to be raised from each of such Wards.

Power to issue requisition.

XLVII. The Magistrate shall, in case the Town be not divided into Wards, as soon as reasonably may be after filing such order, by a requisition in the form in Schedule (E), or to the like effect, require the Town Committee within three months to make an assessment under the provisions of this Act on all who are liable to it, such that the total amount assessed shall be not less than the amount of the Estimates of expenditure in the Town for the year; and in case the Town shall be divided into Wards, the Magistrate shall, so soon as conveniently may be after the total amount of the Estimates shall have been apportioned among the several Wards as hereinbefore is provided, by a requisition in like form or to the like effect, require the several Ward Committees to make assessments under the provisions of this Act in their respective Wards upon all who may be liable to such assessment, such that the total amount to be assessed in each Ward shall not be less than the amount determined as the amount to be raised from it according to the provisions in Section XLVI contained.

Duties of Committee in assessing.

XLVIII. Immediately on the receipt of the Magistrate's requisition, the Town Committee or Ward Committees, as the case may be, shall prepare and make an assessment upon the several persons liable to be assessed within the Town or Ward for which such Committee shall be appointed, and shall enter the same in a list, which shall specify every parcel of land, house, or other holding on account of the occupation of which any person is liable to be assessed, the name of the person liable to be assessed in respect

of each such holding, the trade, business, or other description of such person, and the amount payable quarterly by such person.

Committee may be required to revise existing assessment.

XLIX. The Town Committee or Ward Committees shall, if required by the Magistrate so to do, instead of making a new assessment for any year, revise and amend the assessment then in force; provided that the total amount of the assessment so revised shall not be less than the total amount of the expenditure passed in the Estimate for carrying out the provisions of this Act during the year.

Town Committee to examine assessment of Ward Committee.

L. When any assessment shall have been made, or shall have been revised or amended under Section XLIX of this Act, by any Ward Committee, such Ward Committee shall forthwith forward to the Town Committee the list containing the same, and such Town Committee shall examine, and, if necessary, amend and settle it.

Magistrate may amend and settle assessment as made or revised by the Town Committee.

LI. When an assessment shall have been made, or amended and revised under Section XLIX of this Act, directly by any Town Committee, and not by a Ward Committee, such Town Committee shall forward to the Magistrate the list containing the same, and the Magistrate shall examine, and, if necessary, amend and settle it.

Assessment to be published.

LII. When the assessment in any Town shall have been so settled as provided by the preceding Sections, the Magistrate shall sign the list, and shall cause one copy thereof, together with a Notification in the form in Schedule (F) to this Act annexed, or to the like effect, and written in the language of the province in which such Town is situate, to be put up in some conspicuous place in the Town or division of the Town for which the assessment has been made; and a written copy of the said list to be deposited in his own Office. So soon as the copies of the list shall have been so hung up and deposited, public proclamation shall be made throughout such Town by beat of drum notifying that such copies have been

so hung up and deposited, and that the copy so deposited in the Magistrate's Office is open to inspection.

Assessment to stand good for three years.

LIII. Unless, and until revised and amended as herein is provided, every assessment, as settled under Section L or LI, shall be valid for three years, and until a new assessment shall be made. In case the occupant of any property included in any assessment shall be changed before a new assessment be made, the new occupant shall be liable in respect of such property for any portion of the assessment which shall have become payable during his occupation; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupant.

Change of occupation before a new assessment.

Power to adopt old assessment.

LIV. Whenever the period for which any assessment is valid, as provided in Section LIII of this Act, shall be about to expire, notwithstanding anything hereinbefore contained, it shall be lawful for the Magistrate, instead of requiring any Town Committee or Ward Committee to make a new assessment, or to revise and amend the assessment then in force, to adopt the said assessment as the assessment for the year next following.

Old assessment to be continued if new not made.

LV. If no new assessment be made and published before the expiration of the first three months of any year, for which no assessment valid under the provisions of Section LIII shall be in force, the assessment which was in force at the close of the preceding year shall be deemed to be the assessment for the current year.

Notice of adoption of old assessment to be given.

LVI. As soon as possible after an assessmont shall have been adopted under Section LIV, or shall have taken effect for the current year under the last preceding Section, the Magistrate shall, in the manner provided in Section LII for giving public notice, that the copies of the list of assessment have been hung up and deposited, give public notice that the assessment in force at the close of the preceding year will continue to have effect during the current year, but it shall not be necessary to hang up fresh copies of such list; and every person whose assessment may be so con-

tinued shall be at liberty to appeal against such assessment as if it were a new assessment made upon him.

Appeal from assessment made by Town Committee.

LVII. Any person who shall have been assessed by a Town Committee, of which the Magistrate has not been appointed a Member, and who shall be dissatisfied with his assessment, or who shall dispute his occupation of any property, or his liability to be assessed, may appeal on unstamped paper to such Town Committee at a Meeting; and in case such Town Committee shall not grant the prayer of such appeal, such Town Committee shall submit the decision of the matter to the Magistrate, and the Magistrate, after making such enquiries as he may deem necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment, or amend the same. In case the Magistrate confirm the assessment, he may order that the appellant shall pay such reasonable costs as may have been incurred in the proceedings on his appeal. The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment, nor shall the liability of any person to be assessed be questioned in any other manner or by any other court. Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment prescribed by Section LII or Section LVI, or of the notification of the substitution of the name of an occupier under Section LIII, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Limitation of appeal.

Appeal against assessment when Magistrate a Member of Committee.

LVIII. Any person who shall have been assessed by a Town Committee of which the Magistrate has been appointed a Member, and who shall be dissatisfied with his assessment, or who shall dispute his occupation of any property or his liability to be assessed, may apply on unstamped paper to the Town Committee for a review of the assessment so far as regards himself; and with regard to such applications, the Town Committee at a Meet-

ing shall proceed as the Magistrate is directed to proceed in Section LVII, and the orders passed by the Town Committee on such application shall have the same effect and finality as orders passed by the Magistrate under Section LVII. Applications under this Section to the Town Committee at a Meeting shall be subject to the same limitation of time as appeals to the Magistrate under Section LVII.

Appeals from assessments made by Ward Committees.

LIX. Any person who shall have been assessed by a Ward Committee, and who shall be dissatisfied with his assessment, or who shall dispute his occupation of any property or his liability to be assessed, may appeal on unstamped paper to the Town Committee. And with regard to such appeals, the Town Committee at a Meeting shall proceed as the Magistrate is directed to proceed in Section LVII, and the orders passed by the Town Committee at a Meeting on such appeals shall have the same effect and finality as orders passed by the Magistrate under Section LVII. Appeals to the Town Committee at a Meeting shall be subject to the same limitation of time as appeals to the Magistrate under Section LVII.

Power to assess on account of newly occupied tenement.

LX. It shall be lawful for the Magistrate at any time to require any Town Committee or Ward Committee, as the case may be, to make an assessment on account of the occupation of any house which may have been constructed, or any house or other holding which may have become liable to assessment after the general assessment which may then be in force shall have been made, or which may have been by mistake or accident omitted from such assessment. Notice of the amount assessed in accordance with such requisition shall be given to the person so assessed, who may appeal or apply against such assessment according to the provisions of Sections LVII, LVIII, or LIX, within one month after the service of such notice.

Power to apply for reduction of assessment in altered circumstances.

LXI. It shall be lawful for any person, upon whom any assessment shall have been made, who shall, during the period for which such assessment is valid, have ceased to occupy any property

in respect to which he may have been assessed, or whose property to be protected, and circumstances may have changed during the period aforesaid, to apply on unstamped paper to the Town Committee, and in case such Town Committee shall not grant the prayer of such application, such Town Committee shall submit the decision of the matter to the Magistrate, and the Magistrate, after making such enquiries as he may deem necessary, by examination of the applicant on oath or solemn affirmation, or otherwise, may amend the assessment of such applicant as to him shall appear just, or may confirm the same, and in case he shall confirm the said assessment, may order that the applicant shall pay such reasonable costs as may have been incurred by reason of such application. The decision of such Magistrate upon such application shall be final.

Commissioner of Division may direct revision of assessment.

LXII. The Commissioner of the Division, with the sanction of the Government, may at any time direct the Magistrate to revise or to cause to be revised by the Town or Ward Committee the assessment of any Town, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise, and, if necessary, amend the same, or cause it to be revised and amended.

Magistrate may direct Supplementary Estimates.

LXIII. If, during any period for which an Estimate shall have been passed, it shall appear that the amount provided by such Estimate is insufficient to defray the necessary expenses for carrying out the provisions of this Act during the period, it shall be lawful for the Magistrate to cause Supplementary Estimates to be prepared, and the provisions of this Act with respect to the preparation, submission to the Town Committee, and approval of the Original Estimates, shall be applicable to such Supplementary Estimates. Provided always that the total amount of such Supplementary Estimates, together with the amount of the Original Estimates, shall not exceed the total sum which, according to the provisions of Section XLIV, it is lawful to raise in such Town.

Power to Magistrate of District to compel further assessment.

LXIV. The Magistrate of the District may at any time of the year proceed, as hereinbefore is provided with regard to the Original Estimate, to require the Town Committee or Ward Committee to provide for the expenditure shown in the Supplementary Estimate, by revising and increasing the assessment for the current year, and giving in their revised list within such reasonable time as may be fixed by such Magistrate.

Publication of assessment as revised under Sections LXII, LXIII, and LXIV.

LXV. Whenever any assessment is revised during the year as provided in Sections LXII, LXIII, and LXIV, so much of the list containing such assessment as has been in any way altered, revised, or amended, together with a notification as prescribed in Section LII, shall be prepared and published in the manner therein directed; and all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in Sections LVII, LVIII, and LIX.

PART VII.

Appointment and Duties of Tax Collectors.

Appointment of Tax Collectors and other Establishment.

LXVI. The Magistrate may appoint in every Town one or more Tax Collectors, and such other servants as may be necessary for assisting the Committees in preparing the assessment, or for collecting the amount assessed, for keeping the accounts and the records, and otherwise for carrying out the purposes of the Act. The Magistrate shall take from every Tax Collector such security for the due disposal of the sums collected by him as may be thought necessary.

Magistrate to make rules.

LXVII. The Magistrate may, with the sanction of the Commissioner of the Division, make such rules as he may think fit as to the manner in which, and as to the persons by whom, all duties connected with the collection of the tax or the preparation of the assessment shall be performed. Provided such rules be in all respects consistent with the provisions in this Act contained.

LXVIII. Every Tax Collector shall prepare, from the lists hereinbefore mentioned, a register which shall contain the names of all persons assessed, the property in respect of the occupation of which the assessment in each case is imposed, and the amount payable quarterly by each person in the Town or division or portion of a Town in which the duties of such Tax Collector are to be performed; and every such list shall be attested by the Magistrate.

Tax Collector to prepare Assessment Register.

LXIX. Every tax to be payable under this Act shall be payable by four equal quarterly instalments. The instalment of tax on account of any quarter shall be due on the first day of the first month in the said quarter.

Payment of tax by instalments.

LXX. When any sum is due on account of any tax leviable under this Act, the Magistrate shall cause to be presented to the person liable to the payment thereof, a bill for the amount, which shall also contain a statement of the period and a description of the house or other property on account of the occupation of which the charge is made.

Tax Bills to be presented.

LXXI. For all sums collected on account of any tax under this Act, a receipt shall be given signed by the Tax Collector or by some other Officer who may have been specially authorized by the Magistrate to grant such receipts.

Receipts to be given.

LXXII. The Tax Collector or other Officer appointed on that behalf shall remit, in such manner and at such time as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some other Officer authorized on that behalf, shall give the Tax Collector a receipt for every sum of money so remitted. The Magistrate shall also cause all such sums of money to be credited to the Town Fund of the Town.

Tax Collector to remit collections.

LXXIII. If any bill which may have been presented in pursuance of this Act be not paid by the person liable to pay the same within ten days from

Recovery of Taxes.

the presentation thereof, the Magistrate may cause to be served upon such person a notice of demand in the form in Schedule (G) annexed to this Act, or to the like effect; and if such person shall not, within ten days from the service of notice of such demand, pay the sum due, together with a fee of two annas as costs for the service of the notice of demand, or show to the Magistrate sufficient cause for non-payment of the same, the amount of the arrear due, with costs and the scale in the Schedule (H) set forth, which shall include those of serving the notice of demand, may be levied by distress and sale of any goods and chattels belonging to the defaulter which may be found within the Town, or of any goods and chattels whatever which may be found on the premises in respect of the occupation of which such defaulter is liable to such tax.

Sale how to be conducted.

LXXIV. Every warrant of distraint and sale under the last preceding Section shall be issued by the Magistrate. The Officer charged with the execution of the warrant of distress shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give not less than ten days' previous notice of the sale, and of the time and place thereof, by beat of drum, in the Town or division thereof in which the property is situated. If the arrear be not paid, with costs, before the time fixed for the sale, or the warrant be not discharged or suspended by the Magistrate, the goods and chattels seized shall be sold by public outcry at the time and place specified in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and the costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The Tax Collector or other Officer appointed on that behalf by the Magistrate shall make a return of all such sales to the Magistrate in the form specified in Schedule (J), and the costs upon every such proceeding shall be such as are mentioned and set forth in Schedule (H) annexed to this Act.

Proceeds how to be applied.

Costs.

Sale of property beyond limits of Town, &c.

LXXV. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of the occupation of which the tax is due, can be found within the Town in which the premises are situate, the Magistrate, on being satisfied thereof, and of the existence of an arrear, may issue his warrant for the distress and sale of any goods and chattels belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any goods and chattels belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

All goods found on premises liable to sale.

LXXVI. All goods and chattels, except tools or instruments of trade, which may be found upon any premises in respect of the occupation of which an arrear is due, shall be liable to be distrained for the recovery of such arrear. If the goods and chattels belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress, or any sale under the same. Provided that no arrear of tax which has remained due for more than three calendar months shall be recovered by distress and sale of the goods and chattels of any person, other than the defaulter himself, who did not reside on the premises in respect of which such tax was imposed at the time when such arrear became due.

But owner of goods to be indemnified by the defaulter.

No person employed in collection of tax to buy distrained goods.

LXXVII. Every Tax Collector and other servant appointed for, or employed in, the performance of any duties connected with the assessment or collection of the tax under this Act, is prohibited from bidding for, or purchasing, any property at such sales as aforesaid.

Magistrate to keep account of distresses and sales.

LXXVIII. The Magistrate shall cause a regular account to be kept of all distresses levied, and sales made, for the realization of arrears under this Act.

Accounts to be prepared.

LXXIX. Within one month after the commencement of each year, the Magistrate shall cause to be prepared accounts of the receipts and expenditure of the Town Fund during the previous year, and shall cause such accounts to be laid before such Town Committee for the space of one month, and shall cause copies of such accounts and of any remarks made thereon by the Town Committee to be forwarded to the Magistrate of the district, who shall forward the same to the Commissioner of the division.

Removal of property to be fraudulent.

LXXX. Whoever conceals, removes, or disposes of any property belonging to the person who is liable for any amount of tax, for the purpose of avoiding a distress under the provisions of this Act, shall be considered to have concealed, removed, or disposed of such property fraudulently.

Fines how to be disposed of.

LXXXI. All fines levied under this Act shall be credited to the Town Fund, and held available for the purposes of this Act.

PART IX.

Conservancy powers of Magistrate.

Conservancy powers.

LXXXII. It shall be lawful for the Government, if it shall think proper so to do, by a Notification to be published in the *Calcutta Gazette*, to extend to any Town all or any of the provisions for the regulation of conservancy, or of local improvement, which are contained in Schedule (K) to this Act annexed, and from and after such extension such and so many of the said provisions as shall be so extended shall take effect in such Town as if the same were a portion of this Act.

LXXXIII. It shall be lawful for the Magistrate, whenever any sum may be recoverable from any person under any of the provisions in the said Schedule (K) contained, for the expenses of any work performed by such Magistrate, to make out a bill of the amount of such expenses, and to cause notice of the particulars of such bill to be served upon the person liable to pay the same. If such bill shall not be paid within five days after the service of such notice, the amount thereof may be recovered from the person upon whom the bill shall have been so served, as if such amount were an arrear of assessment due under the provisions of this Act.

Power to recover expenses.

LXXXIV. In any place to which this Act shall not have been extended, and to which the provisions of the said Act XX of 1856 have been or shall be extended, it shall be lawful for the Magistrate, by the ways and means in and by the same Act provided for raising the amount of the expense of chowkeedars appointed under the said Act, to cause to be levied such sum as to him shall seem meet, and apply the same in cleansing such place, or in writing or otherwise improving the same. Provided that the aggregate amount so to be raised shall not, together with the amount to be raised under the provisions of the said Act VI of 1867, exceed the average rate of two annas per mensem for each house, and the amount assessed in respect of any one house shall not exceed the maximum assessment as specified in section 11 of the said Act XX of 1856.

Powers of Conservancy in places to which Act not extended.

PART X.

General Provisions for carrying out the purposes of the Act.

LXXXV. Every notice, bill, or summons, under any of the preceding sections of this Act, may be served personally upon the person to whom the same is addressed, or may be served by leaving the same at his usual or last known place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be served by being put up on some conspicuous part of such place of abode. If such notice, bill, or summons relates to

Service of notices.

any house, building, or land, and the place of abode of the person whom it is intended to affect by such notice, bill, or summons, is unknown, or is not within the town in which such house, building, or land is situate, the same shall be deemed to be duly served if put up on some conspicuous part of the house, building, or land to which the same relates.

Magistrate may bring suit instead of distraining or on failure of distress.

LXXXVI. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any rates, taxes, expenses, and charges recoverable under the provisions of this Act, the Magistrate may sue the person liable to pay the same in any court of competent jurisdiction.

Power to make compensation out of Town Fund.

LXXXVII. The Magistrate may make compensation out of the Town Fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the Magistrate, his officers, or servants, under this Act.

No action to be brought against the Magistrate or his officers until after one month's notice of cause of action.

LXXXVIII. No action shall be brought against the Magistrate nor against the Town Committee nor against any Member thereof, nor against any of his or their officers, nor against any person acting under his or their direction, for any thing done or professing or purporting to be done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Magistrate, or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff; and unless such notice be proved, the Court shall find for the defendant; and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and if any person to whom any such notice of action is given, shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

No charge to be instituted under this Act without consent of Magistrate.

LXXXIX. The Magistrate may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties and for the punish-

ment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the Town Fund; and no charge of an offence under this Act shall be instituted without the order or consent of the Magistrate, and no such charge shall be instituted except within three months next after the commission of such offence.

Assessment not to be impeached if the directions of the Act are in substance complied with.

XC. No assessment, and no charge or demand of a rate or tax, made under the authority of this Act, shall be impeached or affected by reason of any mistake in the name of any person liable to pay such tax, or in the description of any property or thing liable to such tax in respect of which the same is imposed, or by reason of any mistake in the amount of assessment, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall, for want of form, be quashed or set aside in any court of justice.

Distress not unlawful for want of form.

XCI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any bill, notice, schedule, summons, notice of demand, warrant of distress, inventory, or other proceeding relating thereto, nor shall such party be deemed a trespasser, *ab initio*, on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any court of competent jurisdiction, subject to the provisions of Section LXXXVIII of this Act.

Proceedings of Magistrate of District and Commissioner of Division, respectively, subject to control of Lieutenant-Governor.

XCII. All the proceedings of the Magistrate of the District, or of a Magistrate under this Act, or of a Town Committee, except as otherwise specially provided, shall be subject to the control and revision of the Commissioner of the Division; and all the proceedings of the Commissioner of the Division shall be subject to the control of the Lieutenant-Governor.

XCIII. This Act shall be called "The District Towns' Act, 1868."

Short title.

SCHEDULE A—(*Referred to in Section XXXIII.*)

SHOWING the number of the Members of the Committee to retire in each year.

Number of Members of Committee.	To retire 1st year.	To retire 2nd year.	To retire 3rd year.
4	1	1	2
5	1	2	2
7	2	2	3
8	2	3	3
10	3	3	4
11	3	4	4
13	4	4	5
14	4	5	5
16	5	5	6
17	5	6	6
19	6	6	7
20	6	7	7

SCHEDULE B—(*Referred to in Section XLII.*)

Powers of Magistrate which may be exercised by the Town Committee at a Meeting.

Sections XII, XV, XVI, XVIII, XXIII, LI, LIV, LX, LXI, LXIII, LXXXVI, LXXXVII; and clauses 1 to 13 of Schedule K.

SCHEDULE C—(*Referred to in Section XLII.*)

Powers of Magistrate which may be exercised by the Town Committee.

Sections V, X, LXV, LXVI, LXVII, LXX, LXXI, LXXII, LXXIII, LXXVIII, LXXIX, LXXXIII, LXXXVI, LXXXVII, LXXXVIII, and LXXXIX.

SCHEDULE D—(*Referred to in Section XLV.*)

ORDER FOR ASSESSING.

It is hereby ordered that an assessment be made upon the Town of under the provisions of the District Towns' Act, 1868, for the sum of Rupees

(Signed) A. B.,
Magistrate of District.

SCHEDULE E—(*Referred to in Section XLVII.*)

DIRECTIONS FOR MAKING ASSESSMENT.

Dated of

[*Here insert the names, places of abode, business or other description of the several Members of the Town Committee or Ward Committee.*]

Direction to assess.

I, A. B., Magistrate of ( ) do hereby require you, the Town Committee (or Ward Committee), appointed under the District Towns' Act, 1868, with all reasonable expedition, not exceeding [*here insert a period to be fixed by the Magistrate*] from the date hereof, to make out, and forward to me, the undersigned Magistrate, , a fair and equitable assessment upon the several occupiers of houses, shops, and buildings in the [*here describe the Town or Ward*] for the purpose of raising the sum of Rupees required for the purposes of the said Act for the year commencing on . You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. The assessment in respect of the occupation of any one holding shall not be more than seven rupees per mensem.

Exemption.

If the occupier of any house in the said District shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property

occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

Lodging-houses.

If any house be let out in portions to different persons, or be let out to, or occupied by, lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall be deemed the occupier of such house, and shall be assessed accordingly.

Contents of assessment.

The assessment which you are hereby required to make shall specify every item of property in respect of the occupation of which any person is assessed, the name, trade, or business, or other description of the person assessed, the annual assessment, and the amount payable monthly; and may be in the following form, or to the like effect:—

Premises occupied.	Name of occupant.	Profession or business, or other description.	Annual assessment in respect of this item of property.	Amount of monthly payment.

(Signed)
Magistrate of

SCHEDULE F—*(Referred to in Section LII.)*

Notice of Assessment.

An assessment made for [*here describe the Town or Division for which the assessment is made*] upon the several occupiers

of houses and other property in the said District, pursuant to the District Towns' Act, 1868, for the purpose of maintaining the Police for such Town, and carrying out the other provisions of the said Act.

Property occupied.	Names of occupants.	Profession or business.	Amount of quarterly assessment.

Whereas the above assessment has been duly made pursuant to the District Towns' Act, 1868, and has been revised and settled by me the undersigned Magistrate of , the several persons whose names are included in the said assessment are hereby required to pay the quarterly instalments set opposite to their names with regularity to the Tax Collector or other person appointed by the Magistrate to receive the same, the first payment on the first day of ( ), and every subsequent payment on or before the first day of ( ), the first day of ( ), and the first day of ( ), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed, and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

SCHEDULE G—(*Referred to in Section LXXIII.*)

NOTICE OF DEMAND.

Town of ( )

To of

Take notice that the sum of Rs. , being the amount of assessment due from you to the Town Fund of the said Town, is hereby demanded from you, and that if you do not, within ten days, pay the same with two annas as the cost of this notice into the Office of , the same with costs will be levied by distress and sale of your goods and chattels.

(Signed)
Magistrate of

SCHEDULE H—(*Referred to in Sections LXXIII and LXXIV.*)

TABLE OF FEES PAYABLE IN DISTRAINTS UNDER THIS ACT.

Sum distrained for.	Fee.	
	Rs.	As.
Under 1 Rupee	0	4
1 and under 3 Rupees	0	8
3 „ 5 „	1	0
5 „ 10 „	1	8
10 „ 15 „	2	0
15 „ 20 „	2	8
20 „ 25 „	3	0
25 „ 30 „	3	8
30 „ 35 „	4	0
35 „ 40 „	4	8
40 „ 45 „	5	0
45 „ 50 „	5	8
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100	10	0

The above charge includes all expenses, including the service of notice of demand, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

SCHEDULE J—*(Referred to in Section LXXIV.)*

RETURNS OF SALES.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

SCHEDULE K—*(Refegred to in Sections LXXXII and LXXXIII.)*

CONSERVANCY PROVISIONS.

Future obstructions in highway.

I. Whoever builds any wall, or erects or sets up any fence, rail, post, or other obstruction or encroachment in any public highway, or in or over any open drain, sewer, or aqueduct along the side of any such highway, shall be liable to a fine not exceeding fifty Rupees; and the Magistrate shall have power to remove any such obstruction or encroachment; and the expense of such removal shall be paid by the person erecting the same, and shall be recoverable from him in the manner provided in Section LXXXIII of this Act.

Taking up pavements.

II. Whoever displaces, takes up, or makes any alteration in the pavement or other materials, or in the fences or posts of any public highway, without the consent, in writing, of the Magistrate, or without other lawful authority, shall be liable to a fine not exceeding twenty Rupees.

Projections from houses erected in future to be removed.

III. The Magistrate may give notice in writing to the owner or occupier of any house or building as aforesaid, to remove or alter any projection, encroachment, or obstruction, which after this Act shall have taken effect, shall be erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public highway, or obstructs or projects or encroaches into or upon any uncovered aqueduct, drain or sewer in such highway; and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such projection, encroachment, or obstruction, or alter the same in such manner as shall have been directed by the Magistrate; and, in default thereof, shall be liable to a fine not exceeding fifty Rupees: and the Magistrate in such case may remove or alter such projection, encroachment, or obstruction; and the expense of such removal or alteration shall be paid by the owner or occupier so making default, and shall be recoverable from him in the manner provided in Section LXXXIII of this Act.

Removal of existing projections from houses.

IV. The Magistrate of any Town may, upon the petition of not less than twenty persons assessed to the tax in such Town, cause any such projection, encroachment, or obstruction erected or placed against or in front of a house or building in any public highway before this Act shall have been extended to such Town, to be removed or altered as he shall think fit. Provided that notice be given of such intended removal or alteration to the occupier of the house or building against or in front of which such projection, encroachment, or obstruction shall be, thirty days before such alteration or removal is begun; and that reasonable compensation to every person who suffers damage by such removal or alteration shall be made from the Town Fund of such Town. In case the person so damaged, and the Town Committee may differ in their estimate of the amount of compensation, the same shall be referred to the arbitration of a body consisting of three arbitrators, one to

Notice of removal.

Compensation when to be made.

be appointed by the person claiming compensation, another by the Town Committee, and the third by the Magistrate, or if the Magistrate be a member of the Town Committee, by the Magistrate of the District, and the award of such arbitrators shall be final.

Houses projecting beyond line of highway, when taken down, to be set back.

V. Whenever any house or building, part of which projects beyond the regular line of a public highway, or beyond the front of the house or building on either side thereof, shall be taken down in order to be rebuilt or altered, the Magistrate may require the same to be set back to or towards the line of the highway or the line of the adjoining houses or buildings, and reasonable compensation shall be made from the Town Fund to the owner of such house or building for any damage he may thereby sustain; such compensation, if the parties differ, to be ascertained as in the next preceding section is provided.

Hedges and trees bordering roads to be trimmed.

VI. The Magistrate may, by notice in writing, require the occupier of any land to cut and trim any hedges or trees growing upon such land, which overhang any public highway so as to obstruct the passage of, or cause injury to, such highway; and in case any such occupier shall refuse or omit or neglect to comply with such notice for the space of eight days after the service of notice thereof upon him, he shall be liable to a fine not exceeding four annas for every day after the expiry of the said space of eight days, during which he may refuse or omit or neglect to comply with such notice.

Houses in a ruinous and dangerous state.

VII. If any house, building or wall, or any thing affixed thereon, be deemed by the Magistrate to be in a ruinous state, or likely to fall, and thereby to be in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupiers thereof, or to passengers, he shall cause notice in writing to be given to the owner if he be known and resident within the limits of the town, and shall also cause notice to be put on the door or other conspicuous part of the said premises, requiring the owner or occupier forthwith to take down, secure, or repair

such house, building, wall, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure the same, within three days after such notice, and do not carry on the work to the satisfaction of the Magistrate, may cause all or so much of such house, building, wall, or thing, as he shall think necessary, to be taken down, repaired, or otherwise secured; and all the expenses shall be paid by the occupier of the premises, and shall be recoverable from him in the manner provided in Section LXXXIII of this Act; but in case it shall appear to such Magistrate that there is not any occupier of such premises, or that by contract or otherwise the owner of such premises was liable to keep the same in repair, or that the occupier thereof is from poverty unable to pay such expenses, the same may be in like manner recovered from such owner in lieu of such occupier.

Penalty for not keeping drain, &c., in proper state.

VIII. Whoever, being the owner or occupier of any private drain, privy, or cesspool, shall neglect or refuse, after notice from the Magistrate, to keep the same in a proper state, shall be liable to a fine not exceeding fifty rupees.

Fouling water by bathing, washing, throwing rubbish, &c.

IX. Whoever shall bathe in any tank which may be public property, and the water of which shall have been declared by the Magistrate to be appropriated to the domestic use of the inhabitants of the Town, or shall wash or cause to be washed therein any animal or any wool, cloth, or wearing apparel, or any utensils used for cooking or other purposes, or any leather, or the skin of any animal, or any foul or offensive thing, or shall put or cause to enter therein any animal or any gravel, stone, dirt, or rubbish, or any dirt, filth, or other noxious thing; or shall cause or suffer to run, drain, or be brought thereunto, the water of any sink, sewer, drain, engine, or boiler, or any other unwholesome or offensive liquid; or shall do any thing whatsoever whereby any such water shall be in any degree fouled or corrupted, shall be liable to a fine not exceeding fifty rupees.

Power to fill up unwholesome tanks on private premises.

X. Whenever any tank, drain, or other excavation containing waste or stagnant water, the same being within any private enclosure, appears to the Magistrate to be injurious to health, or to be offensive to the neighbourhood, it shall be lawful for the Magistrate, by notice in writing to be served on the occupier of the premises, and also, in case the owner of such premises be known and resident within the Town, upon such owner, to require such occupier and owner to cleanse or fill up such tank or excavation; and if they, or one of them, do not begin to cleanse or fill up the same within one week after such notice, and do not complete such work with due diligence, the Magistrate, his officers, and workmen, may enter into the said premises and do all necessary acts for the purpose aforesaid, as he or they shall think fit; and the expense incurred thereby shall be paid by the occupier of such premises, and shall be recoverable from him in the manner provided in Section LXXXIII of this Act. Provided, always, that in case it shall appear to the Magistrate that such occupier is from poverty unable to pay such expenses, the same may be recovered in like manner from the owner of the said premises.

Power to clear noxious vegetation and to improve bad drainage.

XI. Whenever any land or premises, being private property or within any private enclosure, appear to the Magistrate to be, by reason of thick or noxious vegetation or want of drainage, in a state injurious to health or offensive to the neighbourhood, it shall be lawful for the Magistrate, by notice in writing to be served on the occupier of such premises, and also in case the owner of such premises be known and resident within the Town, upon such owner, to require such occupier of the premises to clear and remove such vegetation or drain such premises; and if he do not within one week after such notice begin to cut, clear, and remove such vegetation or to drain such land, and do not complete such work with due diligence, the Magistrate, his officers, and workmen may, after forty-eight hours' notice, enter into the said premises and do all necessary acts for the purpose aforesaid, as he or they shall think fit; and the expenses incurred thereby shall be

paid by the occupier of such premises, and shall be recoverable from him in the manner provided in Section LXXXIII of this Act. Provided, always, that in case it shall appear that such occupier is from poverty unable to pay such expenses, the same may be in like manner recovered from the owner of such premises in lieu of such occupier.

Power to drain off and cleanse stagnant pools in open places.

XII. The Magistrate may from time to time, as he may see fit, drain off into any sewer and cleanse and fill up, or otherwise abate, any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure) which shall appear to him to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or not.

Places dangerous to passengers to be repaired or enclosed.

XIII. If any pit, well, or hole in or near any public highway be, for want of sufficient repair, protection, or enclosure, dangerous to passengers, the Magistrate shall cause the same to be repaired, protected, or enclosed so as to prevent danger therefrom, and the expenses of such repair, protection, or enclosure shall be paid by the occupier of the property so repaired, protected, or enclosed, and shall be recoverable from such occupier in the manner provided in Section LXXXIII of this Act, and in his default shall be in like manner recoverable from the owner of such property.

Penalty for committing a nuisance in highways.

XIV. Any person who may commit any nuisance in any public highway by easing himself thereupon, shall be liable to a fine which may extend to five rupees.

Reg. No. 5228—300—28-11-75.

ACT No. VII of 1868.

Passed by the Lieutenant-Governor of Bengal in Council.

(*Received the assent of the Lieutenant-Governor on the* 16*th July* 1868, *and of the Governor-General on the* 10*th August* 1868.)

An Act to make further provision for the recovery of Arrears of Land Revenue and Public Demands recoverable as Arrears of Land Revenue.

Preamble.

Whereas it is expedient to amend and extend the law for the recovery of arrears of Land Revenue and of Public Demands recoverable as arrears of Land Revenue. It is declared and enacted as follows:—

Interpretation.

I. In this Act and in Act XI of 1859 (*to improve the law relating to sales of land for arrears of Revenue in the Lower Provinces under the Bengal Presidency*), the words in this section mentioned shall have the meanings therein attributed to them respectively.

"Proprietor."

The word "Proprietor" includes any tenant by whom any estate or tenure is held directly under Government.

Revenue.

The word "Revenue" includes every sum annually payable to Government by the Proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of Tuccavee, or of any money advanced by Government to Proprietors of land for making or repairing embankments, reservoirs, or water-courses, or other improvements on the land held by them.

"Estate."

The word "Estate" means any land or share in land subject to the payment to Government of an annual sum in respect of which the name of a Proprietor is entered on the Register known as the General Register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of Section X or Section XI of the said Act XI of 1859, have been opened.

"Tenure."

The word "Tenure" includes all interests in land, whether rent-paying or lakhiraj (other than estates as above defined), and all fisheries, which, by the terms of the grants creating the same, or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may or may not have been especially reserved by stipulation in any instrument.

"Jurisdiction."

The "Jurisdiction" of a Collector means the District to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers.

"Collector."

The word "Collector" includes any person vested with the powers of a Collector.

"Demand."

The word "Demand" means any of the following public demands, arrears of which are by law recoverable as arrears of revenue.

Sums due from Public Accountants and their sureties.

Any sum due from any Public Accountant, or from the sureties of any Public Accountant, on account of any loss or defalcation in the account of such Public Accountant;

Sums due from the sureties of farmers.

Any sum which may be due from the sureties of any farmer in respect of the revenue of the estate farmed by him;

Arrears of revenue payable in respect of tenure.

Any arrears of revenue payable in respect of any tenure, for the recovery of which the Collector may not think fit to proceed under Section XI of his Act;

Costs of certain partitions.

Any sum which may be due from any person for his proportion of the authorized expenses of making a division of any estate under Regulation XIX of 1814, or in respect of any fine imposed under sections XX or XXI of the same Regulation;

Costs of embankments.

Any sum which may be due from any person under clause 2 of section XI of Act XXXII of 1855, or in respect of any award of the expenses of the construction, alteration, or extension of any embankment, which may, in pursuance of Act VII of 1866, passed by the Lieutenant-Governor of Bengal in Council, be made by any Collector;

Loss on resale of estates.

Any sum which may be payable by any person under the provisions of section XXIII of the said Act XI of 1859, for the difference between the proceeds of the sale of an estate which may be eventually consummated, and the price bid by such person at a sale of such estate for arrears of revenue;

Water-rates.

Any sum payable to any Collector for water-rate under any agreement made in pursuance of Act VIII of 1867, passed by the Lieutenant-Governor of Bengal in Council;

Fines upon farmers.

Any sum payable as a fine under the provisions of Act XX of 1848 (*for better enforcing the attendance of proprietors and farmers of land before Collectors of Land Revenue in the Lower Provinces of the Bengal Presidency*):

Other revenue demands.

Any other demand which by any law for the time being in force is or shall be recoverable as arrears of revenue.

Appeals against sales.

II. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act, or the said Act XI of 1859, not being a sale made under, and by virtue of, any execution issued upon a certificate made as hereinafter is provided, so that such appeal be preferred to such Commissioner on or before the sixtieth day from the day of sale, reckoning as in section XXIII

of the said Act XI of 1859, or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth day from the day of sale, reckoning as aforesaid, and not otherwise; and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act XI of 1859, which shall appear to him not to have been conducted according to the provisions of the said Acts, awarding at the same time to the purchaser a payment from the proprietor of compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor; such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchase-money during the period of its being retained in the Collector's office: and the order of the Commissioner shall in such cases be final.

Time for revenue sales extended.

III. From the date when this Act comes into operation, the word "thirty" shall be substituted for the word "fifteen" in section VI of the said Act XI of 1859, and the words "or more than thirty" in the same section shall be omitted therefrom, and the said section shall be read as if the same had not been inserted therein.

Time for confirmation of sales extended.

IV. From the date when this Act comes into operation, the words "sixtieth" and "sixty" shall be substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in section XXVII of the said Act XI of 1859.

Mode of serving notices.

V. Every notice in and by this Act, or by the said Act XI of 1859, directed to be served, shall be served by delivering to the person to whom it may be directed, a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person. In case such notice cannot be served in any of the ways hereinbefore

mentioned, it shall be served in such way as the Collector issuing such notice may direct.

Power to cause notices to be served of arrears or demands.

VI. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to empower all Collectors in any District in such order mentioned, if they shall think fit, to cause such notices as shall be in such order specified to be served upon any proprietors or persons liable to any demands, before proceeding under the provisions of the said Act XI of 1859 or of this Act, to realize from such proprietors or persons any arrears of revenue or any demands which may be due from such proprietors or persons, and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue or to any demands which may be due from such proprietors or persons, and shall be recoverable as if the same were a portion of such arrears of revenue or of such demands; and every such order may from time to time be altered, varied, or revoked by any other order of the said Lieutenant-Governor to be from time to time in like manner published.

Notices to ryots to be posted in sub-divisional Cutcherry.

VII. In addition to the notices in and by Section VII of the said Act XI of 1859 directed to be posted, a similar notice shall be posted at the Sub-Divisional Cutcherry within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

Certificate to be conclusive evidence of regularity in service of notices.

VIII. Every certificate of title which may be given to any purchaser under the provisions of Section XXVIII of the said Act XI of 1859, or of Section XI of this Act, shall be conclusive evidence, in favor of such purchaser and of every person claiming under him, that all notices in or by this Act, or by the said Act XI of 1859, required to be served or posted, have been duly served and posted; and the title of any person who may have obtained any such certificate shall not be impeached or affected by reason of any omission, informality, or

irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

Sales of lakhiraj to be valid.

IX. All sales of lands of lakhiraj tenure, which may heretofore have been made in conformity with the procedure established by the said Act XI of 1859, for payment of arrears of revenue or of demands, shall have such and the same force and effect as if they had been made in execution of a decree against the person liable to pay the revenue or demand for satisfaction of which such sale may have been made.

Collectorate to include all estates borne on its roll.

X. Every estate shall, for the purposes of this Act and of the said Act XI of 1859, be deemed to be within the Collectorate of the Collector upon whose General Register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction; but all lands and tenures shall be deemed to be within the jurisdiction within the local limits of which they may be situate, although the estate of which they form a part may, under the provisions of this section, be deemed to be within the Collectorate of any other Collector.

Power to sell tenures.

XI. Whenever any revenue payable to Government in respect of any tenure not being an estate, shall be in arrear after the latest day of payment fixed in the manner prescribed in Section III of the said Act XI of 1859, the Collector to whom such revenue is payable may cause to be affixed such notices as are mentioned in Section V of the said Act XI of 1859, and may thereupon cause such tenure to be sold in the manner, and subject to the provisions in and by the said Act XI of 1859 provided for the sale of estates for the recovery of arrears of revenue due on account of the same, and the Collector shall apply the purchase-money arising from such sale according to the provisions of Section XXXI of the said Act XI of 1859, except that the residue, if any, shall be held in deposit on account of the holder of the tenure sold, and not on account of the proprietor of the

estate; and every such Collector shall, upon every such sale of any tenure being final and conclusive, make out such certificate of title thereof as is provided in Section XXVIII of the said Act XI of 1859 with respect to estates.

Effect of sale of a tenure.

XII. The purchaser of any tenure sold under the provisions of Section XI of this Act shall acquire it free from all encumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject all under-tenants, with the following exceptions:—

First.—Istemraree or mookurruree tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly.—Tenures existing at the time of permanent settlement, which have not been held at a fixed rent. Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly.—Tenures created or recognized by the settlement proceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement.

Fourthly.—Tenures of lands whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship, or burning or burying grounds have been made.

Power of enhancement.

XIII. Every purchaser of a tenure under Section XI of this Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Saving right of ryot.

XIV. Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under Section XI of this Act, to eject any ryot having a right of occupancy at a fixed rent, or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such ryot otherwise than in the manner prescribed by such laws, or otherwise than as the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Certificate to be made of unliquidated arrears.

XV. Whenever an estate or tenure shall have been sold for the recovery of the arrears of revenue due on account of the same in pursuance of the powers and provisions of the said Act XI of 1859, or of this Act, and the produce of such sale, after defraying thereout the expenses of such sale, shall have been insufficient for the liquidation of all arrears of the revenue of such estate or tenure which, according to the said provisions, may be payable thereout, the Collector of the District shall make under his hand a Certificate of the amount of such arrears so remaining unliquidated, in the form in Schedule (A) to this Act annexed, and shall cause the same to be filed in his Office.

Certificate to be made of arrears payable by a farmer.

XVI. Whenever any estate may be held by any farmer, and arrears of revenue shall be unpaid from such farmer, in respect of such estate, for one month after the latest day of payment fixed in the manner prescribed in Section III of the said Act XI of 1859, the Collector of the District may make under his hand a Certificate of the amount of such arrears so remaining unpaid, in the form in Schedule (A) to this Act annexed, and may cause the same to be filed in his Office.

Certificate to have effect of decree.

XVII. Every such Certificate made in pursuance of the last two preceding Sections shall have the force and effect of a decree of a Civil Court, and the Government shall be deemed to be the plaintiff, and the person named as debtor therein shall be deemed to be the defendant.

Certificate to be made of arrears of demand payable to a Collector.

XVIII. Whenever any arrears of any demand shall be unpaid by any person liable to pay such demand to a Collector for one month after he shall have been required to pay the same by a notice in writing under the hand of such Collector, the Collector of the District shall make under his hand a Certificate of the amount of such arrears so remaining unpaid, in the form in Schedule (A) to this Act annexed, and shall cause the same to be field in his Office.

Certificate of demand payable to person other than a Collector.

XIX. Whenever any arrears of any demand shall be unpaid by any person liable to pay such demand to any officer other than a Collector, the officer to whom such demand is payable shall give to the Collector of the District in which such person resides a notice in writing in the form in Schedule (B), and such Collector shall make under his hand a Certificate of the amount of such arrears so remaining unpaid in the form in Schedule (A) to this Act annexed, and shall cause the same to be filed in his office.

Certificate to be executed as decree of Civil Court.

XX. Every such Certificate made in pursuance of the last two preceding Sections shall, as regards the remedies for enforcing the same, and subject to the provisions hereinafter contained, and so far only, have the force and effect of a decree of a Civil Court, and the Government shall be deemed to be the plaintiff, and the person named as debtor therein shall be deemed to be the defendant.

Notice of Certificate to be served.

XXI. The Collector shall, forthwith upon filing any Certificate, issue to the defendant a notice in the form in Schedule (C). From and after the service of such notice, the Certificate shall bind the immovable property of such defendant situate within the jurisdiction of such Collector as if a prohibitory order had issued and an attachment been executed against such property under Act VIII of 1859 (*The Code of Civil Procedure*); and shall also in like manner bind the immovable property of such defendant situate within

the jurisdiction of any other Collector in whose Office a copy of such Certificate may be filed, from the time of filing such copy.

Power of objecting to Certificate.

XXII. Any person who may be aggrieved by any such Certificate may, within one month from the day on which the last mentioned notice shall have been served, apply, by petition in the form in Schedule (D), to the Collector by whom such Certificate may have been issued, that the same may be set aside or modified or varied. Such Collector, after receiving such application, shall fix a day for the hearing of such application, and shall, upon the day appointed for hearing such application, or on any other day to which such hearing may be adjourned, proceed to hear and determine the application of such applicant, and may set aside or modify or vary such Certificate; and every such Collector shall, for hearing and determining any such application, have all the powers in and by the said Act VIII of 1859 conferred upon the Court for the hearing and determination of claims to attached property, and for enforcement of the costs of such claim; and in case such Collector shall direct the payment of such costs by such applicant, the amount of such costs shall, if the applicant be the defendant, be added to the amount expressed in such Certificate, and be recoverable as if the same had been originally contained therein.

Appeal on application to Collector.

XXIII. Every order made by any Collector upon any such application shall be appealable to the Commissioner: provided always that no appeal against any such order shall be brought after the expiration of one month from the date of the passing of such order.

Power to enforce Certificate.

XXIV. Every Certificate made in pursuance of Sections XV, XVI, XVIII, or XIX, of this Act, may be enforced by all or any of the ways and means mentioned and provided in and by the said Act VIII of 1859 for the enforcement of decrees for money; and all the practice and procedure by the said Act VIII of 1859, and by Act XXIII of 1861 (*to amend Act VIII of* 1859), or by either of them, or by any other Act for the time being to be in force in respect of sales in execution of decrees, in respect of arrests in

execution of decrees for money, in respect of the execution of decrees by imprisonment, in respect of claims to attached property, and in respect of execution of decrees out of the jurisdiction of the Courts by which they were passed, shall apply to every execution issued for levying the monies expressed in such Certificate, save that all the duties, powers, and authorities by the said Act, or either of them, imposed or conferred upon the Court, shall be exercised by the Collector in whose Office any such Certificate, or any copy thereof transmitted for execution according to the provisions of Section CCLXXXVI of the said Act VIII of 1859, shall have been filed.

Certificates to be entered in Register.

XXV. Every Collector shall cause to be kept in his Office a book in such form as shall from time to time be prescribed by the Government of Bengal, and shall cause to be entered therein the particulars of every Certificate under this Act which, or a copy of which, may be filed in his Office.

Register of certificates to be open to inspection.

XXVI. Every such book shall be open to the inspection of any person desiring to see the same, during office hours, upon payment of a fee of eight annas.

Satisfaction to be entered.

XXVII. Whenever the amount due upon any such Certificate shall be fully paid and satisfied, the Collector in whose Office such Certificate may be filed, shall enter satisfaction upon such Certificate under his own hand and signature, and shall transmit to any Collector in whose Office a copy of such Certificate may have been filed, and in case of a demand to the Officer to whom such demand is payable, a Memorandum of such satisfaction.

Transmission of sums received.

XXVIII. Whenever any sum shall be levied or received by any Collector in respect of any Certificate, a copy of which may have been filed in his Office under the provisions aforesaid, such Collector shall transmit such sum to the Office in which such Certificate may be filed.

Repeal of Clauses.

XXIX. From and after the passing of this Act, the Acts and Regulations and portions of Acts and Regulations in Schedule (E) set forth shall

stand and be repealed, so far as they are in such Schedule mentioned to be repealed.

Construction of Act.

XXX. This Act shall be read with, and taken as part of, the said Act XI of 1859, as modified by Act III of 1862 of the Lieutenant-Governor of Bengal in Council.

Schedule A.—*(Referred to in Section XV, XVI, XVIII and XIX.)*

Certificate of Arrear of Revenue (or Demand, as the case may be) filed in Office of Collector of District.

Name of Debtor.	Address.	Nature of demand.	Amount of demand.	No. of Certificate.
C. D.				

I certify that the abovementioned sum of Rupees is due to Government from the abovenamed C. D.

Dated this day of 18 .

A. B.,
Collector of

Schedule B.—(*Referred to in Section XIX.*)

Notice of Demand.

To the Collector of the District of

Name of Debtor.	Address of Debtor.	Nature of demand.	Amount of demand.
C. D.			

The above sum of is due from the said C. D. in respect of

Certified this day of

A. B.,

of

Schedule C.—(*Referred to in Section XXI.*)

To

C. D. OF

SIR,

Take notice that a Certificate under Sections *(XV, XVI, XVIII, or XIX, as the case may be)* of Act VII of 1868 of the Lieutenant-Governor of Bengal in Council of *(Arrears of Revenue or Demand, as the case may be,)* No. , for the sum of Rs. , due from you on account of , has been this day filed by me in my Office, and that I shall forthwith proceed to levy the amount according to law.

A. B.,

Collector of

This day of 18 .

Schedule D.—(*Referred to in Section XXII.*)

To

The Collector of

The Petition of E. F., of

SHEWETH,

That a Certificate under Act VII of 1868, passed by the Lieutenant-Governor of Bengal in Council, No. , for the sum of Rs. , has been filed in your Office on the day of 18 .

That your petitioner is aggrieved by the said Certificate.

That your Petitioner believes that such Certificate is erroneous upon the grounds following, that is to say—

That the said grounds are, to the best of your Petitioner's belief, true in fact.

Your petitioner therefore prays that the said Certificate may be set aside *(or modified, or varied)*.

Schedule E.—(*Referred to in Section XXIX.*)

Date and Number of Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation XIV of 1793...	A Regulation for the recovery of arrears of the Public Revenue assessed upon the lands, from Zemindars independent Talookdars, and other actual proprietors of land, and farmers of land holding farms immediately of Government.	Section XLIV.
Regulation III of 1794 ...	A Regulation for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue, and for prescribing the process by which Tehsildars are to demand payment of arrears; and for enabling the Collectors to recover from Native Officers employed under them public money or papers which they may embezzle or retain; and for expediting the trial of causes relating to the Public Revenue or the rents of individuals.	Section XIV.
Regulation VII of 1799...	A Regulation for enabling proprietors and farmers of land to realize their rents with greater punctuality, for providing against unnecessary delay in the payment of the Public Revenue assessed upon the lands, and for securing the ultimate recovery of arrears of revenue by a sale of the landed property from which it may be due at the close of the year.	Section XXIII, clauses 2 and 8, and so much of Clause 5 as directs the mode of recovering any deficiency; and Section XXV.
Act XI of 1859 ...	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	Section XXV.

Reg. No. 9636G.—300—27-12-80.

ACT No. VIII. of 1868.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 28th November 1868, and of the Governor-General on the 30th December 1868).

An Act to repeal Act XXI of 1857 so far as it affects the Suburbs of the Town of Calcutta.

Repeal of Act XXI of 1857 so far as it affects the Suburbs of Calcutta.

WHEREAS in accordance with Section 52 of Act II of 1866, passed by the Lieutenant-Governor of Bengal in Council, entitled "An Act to provide for the better regulation of the Police within the Suburbs of Calcutta," Act XXI of 1857, passed by the Governor-General of India in Council, entitled "An Act to make better provision for the order and good government of the Suburbs of Calcutta and of the Station of Howrah," has been repealed so far as it applies to such portion of the Suburbs of the Town of Calcutta as is for the time being subjected to the operation of the said Act; and whereas the said Act II of 1866 has, by a Notification of the Government of Bengal dated the 17th October 1867, been extended so as to comprise the greater part of the Suburbs of Calcutta as defined in the said Act XXI of 1857, and it is deemed expedient to repeal the said Act XXI of 1857 within the remaining portion of the Suburbs of Calcutta as defined in the said Act;—It is hereby enacted that the said Act XXI of 1857 shall cease to apply to any portion of the Suburbs of the Town of Calcutta as therein defined.

ACT No. I of 1869.

Passed by the Lieutenant-Governor of Bengal in Council.

(Received the assent of the Lieutenant-Governor on the 28th January 1869, and of the Governor-General on the 1st March 1869.)

An Act for the Prevention of Cruelty to Animals.

Preamble.

WHEREAS it is expedient to make provision for the prevention of cruelty to animals; It is enacted as follows:—

Interpretation of "animal."

I. The word "animal" shall be taken to mean any domestic or tamed quadruped, or any domestic or tamed bird.

Penalty on cruelty to animals.

II. Every person who shall cruelly and wantonly beat, ill-treat, abuse, torture, overdrive, or overload, or cause to be beaten, ill-treated, abused, tortured, overdriven, or overladen, any animal, shall be liable to a fine which may extend to one hundred Rupees.

Penalty on baiting animals, or inciting them to fight.

III. Every person who shall incite any quadrupeds or birds, whether domestic or wild, to fight, or shall bait any animal, or shall aid or shall abet any one in so doing, shall be liable to a fine which may extend to fifty Rupees.

Penalty on permitting diseased animals to go at large or die in public places.

IV. Every person who shall wilfully and knowingly permit any animal, of which he may be owner, to go at large in any public street, road, or thoroughfare, while such animal is affected with contagious or infectious disease, or shall wilfully permit any diseased or disabled animal, of which he may be owner, to die in any public street, road, or thoroughfare, shall be liable to a fine which may extend to one hundred Rupees.

Price 6 Pies.

V. Every person who shall employ or cause to be employed in any work or labor, any animal which, in consequence of any disease, infirmity, wounds, or sores, is unfit to be so employed, shall be liable to a fine which may extend to fifty Rupees.

Penalty on employing animal unfit for labor.

VI. All complaints of offences against the provisions of this Act, alleged to have been committed in the Town of Calcutta, shall be heard and determined in a summary way by some Police Magistrate of Calcutta.

Trial of offences in Calcutta.

VII. Every charge of an offence against the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any Officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure shall apply to the trial of every such charge.

Trial of offences out of Calcutta.

VIII. Section LXVII of Act IV of 1866, and Clause 16 of Section XL of Act II of 1866, respectively, passed by the Lieutenant-Governor of Bengal in Council, are hereby repealed.

Repeal of Clauses.

IX. This Act shall extend to the Town of Calcutta, and to the Suburbs of the Town of Calcutta as defined by any Notification under Section I of the said Act II of 1866.

Limit of Act.

X. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to extend this Act to any city, town, station, bazar, cantonment, village, district, or portion of a district, to be mentioned and defined in such order; and from time to time, by any order published as aforesaid, to revoke, vary, amend, or alter any such order.

Power to extend Act.

ACT No. II OF 1869.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 28th January 1869, and of the Governor-General on the 9th March 1869.)

An Act to ascertain, regulate, and record certain tenures in Chota Nagpore.

Preamble.

WHEREAS, from a very early time certain tenures have existed in Chota Nagpore, known as Bhúinhári, held by persons claiming to be descendants of the original founders of the villages in which such lands are situated, or their assigns; and also certain similar tenures known as Bhút-Khetá, Dáli-Kátári, and Páhnái, consisting of lands set apart for the duties which the Village "Páhan," or Priest, is required to perform, and for his maintenance, and also other similar tenures known as "Mahtoai," consisting of lands allotted to the Village Mahto, or collector of rents; and whereas, where the above tenures are found, there are also lands known as Majhahas, reserved for the use of the respective proprietors of the villages, and at their absolute disposal, and also lands known as Bhet-Khetá, ordinarily assigned as remuneration to the villagers who work for the proprietor or his assigns on the Majhahas land; and whereas disputes have arisen rendering it desirable that these tenures should be defined and recorded, and a register made of all rights,

privileges, immunities, and liabilities affecting the holders thereof; It is enacted as follows:—

Construction.

I. In the construction of this Act, the words and expressions following shall have the meanings hereinafter in this section attributed to them respectively, unless a contrary sense be apparent from the context:—

"Bhúinhári."

The word "Bhúinhári" shall include the tenures mentioned in the Preamble as Bhút-Khetá, Dáli-Kátári, Pâhnái, and Mahtoai.

"Majhahas."

The word "Majhahas" shall include the tenure mentioned in the Preamble as Bhet-Khetá.

"The Special Commissioner."

The words "The Special Commissioner" shall be taken to mean a Commissioner to be appointed for the purposes of this Act.

Power to appoint Commissioners for purposes of Act.

II. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to appoint one or more persons, as may be judged expedient, to be a Commissioner or Commissioners for the purposes of this Act, and by an order, also published in the *Calcutta Gazette*, to define the limits within which each Special Commissioner so to be appointed shall exercise jurisdiction under this Act; and from time to time, in like manner, to vary or revoke any order made by the said Lieutenant-Governor under the provisions of this Act, and to appoint some other person or persons to be Commissioners for the purposes of this Act.

Limits of jurisdiction.

Duties of Special Commissioner.

III. Each Special Commissioner so appointed shall, with all convenient speed, investigate and ascertain the titles and tenures of all lands within the limits so assigned to him, which may be alleged by any person to be held upon Bhúinhári and Majhahas tenures respectively, and shall demarcate the same.

IV. In making such investigation, the Special Commissioner, in addition to all powers conferred on him by this Act, shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822, and the Regulations and Acts amending the same, upon a Collector making a settlement of land revenue.

Powers of Special Commissioner.

V. The Special Commissioner shall make an accurate Register, in such form as may from time to time be ordered by the Lieutenant-Governor of Bengal, of the lands which he may ascertain to belong to the Bhúinhári and Majhahas classes respectively; of the conditions to be fulfilled, and the rents and services to be rendered in respect of the several lands of those classes which he may ascertain to be held subject to any conditions, rents, or services; and of the rights and privileges to be enjoyed in respect of any such lands.

Contents of record.

VI. In case it shall be proved to the Special Commissioner that any person, who within twenty years next before the passing of this Act held any lands of Bhúinhári or Majhahas tenure, has been wrongfully dispossessed of such lands, the Special Commissioner shall cause such person, or, in case of his being dead, the heir of such person, to be put in possession of such lands, and shall cause the name of the person so put in possession to be entered in the Register as the occupant of the said lands on any Bhúinhári or Majhahas tenure, as the case may be.

Power to restore persons wrongfully dispossessed.

VII. It shall be presumed that all lands which may be found under the provisions of this Act to be of Bhúinhári or Majhahas tenure respectively are rightly subject to the conditions, rents, and services upon which such lands respectively are found to be held at the time of the enquiry made by the Special Commissioner, unless it be proved that at some former time, within twenty years before the

Presumption as to services to be rendered.

passing of this Act, such lands were held subject to and upon other and different conditions, rents, and services; in which case it shall be presumed that such lands are rightly subject to the conditions, rents, and services, subject to which they shall be proved to have been held at the earliest period within the said term of twenty years with respect to which such proof shall have been given.

Lands not to be registered if tenure commenced within 20 years.

VIII. No lands shall be registered as lands of Bhúinhári or of Majhahas tenure if it be proved that the occupation of such lands upon such tenure commenced within the term of twenty years before the passing of this Act, unless it be proved that such occupation was in pursuance or revival of an occupation upon such tenure rightfully enjoyed before the commencement of such term.

Power to apply for commutation of services.

IX. Whenever any lands of Bhúinhári tenure are held subject to any conditions or services other than or besides the payment of a rent in money, it shall be lawful for the Bhúinhári tenant of such lands, or for any person who may have the immediate right of receiving the rents and services issuing from such lands (provided such last mentioned person has such right in perpetuity), or if there be no such person other than the zemindar, then for the zemindar, to apply in writing to the Special Commissioner for the commutation of all such conditions and services other than or besides the payment of a rent in money.

On such application notice to appoint assessors to be served.

X. On receipt of any such application, the Special Commissioner shall cause to be served upon each of the persons, who under the provisions of Section IX would have a right to make such application, a notice in writing requiring such person, within ten days from the day of the service of such notice, to nominate, by notice in writing to the Special Commissioner, some person to act as assessor to the Special Commissioner in fixing the amount of rent which shall be payable

in commutation for such conditions and services, and to be present before the Special Commissioner, and to cause such assessor to be there present upon some day to be named in such notice, and not to be less than fifteen days from the day of the service of such notice.

Special Commissioner to hear application with assistance of assessors.

XI. Upon the day which shall have been appointed by the Special Commissioner for the attendance of the parties and assessors as hereinbefore is provided, the Special Commissioner shall, with the assistance of any assessors who may have been, within the time hereinbefore respectively in that behalf mentioned, duly nominated as aforesaid, and who may be present; and if there be no such assessors, then without such assistance, proceed to consider and determine the amount of rent fairly and equitably to be payable in commutation of the conditions and services other than rent to which such tenure may be subject.

Decision to be by Special Commissioner.

XII. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Special Commissioner, but the decision is vested exclusively in the Special Commissioner.

Review of such decision to be heard by Special Commissioner alone.

XIII. In case any review of any decision under Section XII may be ordered, such review shall be heard and determined by the Special Commissioner without the assistance of assessors; and in case, in consequence of any order on appeal, a further enquiry into the subject-matter of any such decision may be necessary, such further enquiry may, if he shall so think fit, be heard and determined by the Special Commissioner without the assistance of assessors.

Power of appeal.

XIV. Any person who may be aggrieved by any decision or order of the Special Commissioner made under this Act, may appeal to the Commissioner of the Division against such decision or order by a petition; but no such petition shall be received after the expiration of three months from the date of such decision or order,

unless sufficient cause for the delay be shewn to the satisfaction of the said Commissioner of the Division, who shall have power to hear and determine the matter of every such petition of appeal.

Power to apply for review of judgment.

XV. Any person considering himself aggrieved by any order or decision of the Special Commissioner from which no appeal shall have been preferred, or by any order of the Commissioner of the Division in appeal, may apply for a review of judgment by the Officer by whom such order or decision was made.

Application for review to be made within a month.

XVI. Such application may be made within one month from the date of the order or decision, and not afterwards.

Power to grant or refuse review.

XVII. If the Special Commissioner or the Commissioner of the Division, as the case may be, shall be of opinion that there are not any sufficient grounds for a review, he shall reject the application ; but if he shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Special Commissioner or the Commissioner of the Division, as the case may be, shall grant the review, and his order in either case, whether for rejecting the application or granting the review, shall be final.

Review not to be granted without notice.

XVIII. No review of an order or decision shall be granted until notice shall have been given to every person who had appeared in the proceedings in which such order or decision was made, and whose interest would be injuriously affected by the review desired.

On grant of application for review, re-hearing to be directed.

XIX. When an application for a review of judgment is granted, such order shall be made for re-hearing the matter in respect of which such order or decision shall have been made as may seem proper.

Decision to be final.

XX. No decision or order of the Special Commissioner shall be in any way altered, varied, or reversed, save on review by the Special Commissioner

under Sections XV, XVI, XVII, XVIII, and XIX of this Act, or by appeal to the Commissioner of the Division under Section XIV of this Act; and no suit shall be received in any Court to vary or set aside any such order or decision of the Special Commissioner, or any decision or order upon appeal or upon review by the Commissioner of the Division made under the provisions of this Act; and every such decision or order upon appeal by the Commissioner of the Division shall be final, unless it be altered, varied, or reversed by the said Commissioner on review under Sections XV, XVI, XVII, XVIII, and XIX of this Act.

No Múkhtár nor Vakíl to be heard.

XXI. No Múkhtár nor Vakíl shall, without the consent of the Special Commissioner, be heard in any proceeding before such Special Commissioner.

Petitions under Act not to be subject to Stamp Duty.

XXII. No petition presented to the Special Commissioner in pursuance of or under the provisions of this Act, or in pursuance of or under any rules or orders to be made by the Lieutenant-Governor under the provisions of this Act in relation to or affecting any matter cognizable under the provisions of this Act, shall be subject to any Stamp Duty.

Lieutenant-Governor may make rules.

XXIII. It shall be lawful for the said Lieutenant-Governor from time to time to make such rules and orders as to him may seem fit for regulating the practice and procedure to be followed in making the enquiries, investigations, demarcations, and registers required by this Act, and all reviews thereof and appeals therefrom; and such rules and orders, when published in the *Calcutta Gazette*, shall have the same force and effect as if the same were a portion of this Act.

Effect of judgment in suits commenced after Act passed.

XXIV. No judgment, decree, or order in any suit instituted after the passing of this Act, shall be evidence in any enquiry before the Special Commissioner respecting the tenure upon which any land is held, or the rents, services, or conditions to which any land is subject.

XXV. The Register of each village, prepared under the provisions of Section V of this Act, shall, when finally revised and corrected in accordance with any decisions and orders of the Special Commissioner and the Commissioner of the Division under this Act, be confirmed by the Commissioner of the Division, and such confirmation shall be published forthwith in the *Calcutta Gazette.*

Register to be confirmed and published.

XXVI. Every Register to be prepared under this Act, after publication of the confirmation thereof in pursuance of the Section next preceding, shall be conclusive evidence of all matters recorded in such Register in pursuance of this Act; and from and after such publication of the confirmation of the Register relating to any village, no evidence shall be received that any lands in such village not mentioned in such Register are of Bhúinhári or of Majhahas tenure.

Register to be conclusive evidence of matters recorded thereon.

XXVII. This Act shall be called "The Chota Nagpore Tenures' Act, 1869."

Short title.

ACT No. III OF 1869.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 29th July 1869, and of the Governor-General on the 13th August 1869.)

An Act to enable Police Officers to arrest without Warrant persons guilty of Cruelty to Animals.

Preamble.

WHEREAS it is expedient to enable Police Officers in certain places to arrest without warrant any person committing, within their view, any offence against Act I of 1869, passed by the Lieutenant-Governor of Bengal in Council, entitled an Act for the prevention of Cruelty to Animals; It is enacted as follows:—

Power to arrest without warrant persons guilty of cruelty.

I. Every Police Officer may arrest without a warrant any person committing, in his view, any offence against the said Act I of 1869.

Act to apply to Calcutta and Suburbs.

II. This Act shall apply to the Town of Calcutta, as defined in Act IV of 1866, passed by the Lieutenant-Governor of Bengal in Council, and in the Suburbs of the Town of Calcutta, as the same may from time to time be defined by any Notification to be from time to time published by the said Lieutenant-Governor, in pursuance of the provisions of Act II of 1866, and save as hereinafter is provided to such Town and Suburbs only.

Power to extend Act.

III. It shall be lawful for the Lieutenant-Governor of Bengal, by a Notification to be published in the *Calcutta Gazette*, to extend this Act to any Town, Suburb, District, or tract of country, to be mentioned and defined in such Notification; and from and after the publication of such Notification, this Act shall extend and apply to the Town, Suburb, District, or tract of country therein mentioned and defined.

ACT No. IV OF 1869.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 12th August 1869 and of the Governor-General on the 24th idem.)

An Act better to provide for the improvement of the Port of Calcutta.

Preamble.

WHEREAS the provisions of Act X of 1866 passed by the Lieutenant-Governor of Bengal in Council, entitled "An Act for the improvement of the Port of Calcutta," have proved inoperative, and the Trustees in and by the said Act appointed have ceased to perform or exercise the duties and powers in and by the said Act imposed and conferred upon them; and whereas it is expedient to provide for the performance and exercise of such duties and powers in the meantime and until some permanent arrangement may be made for the conservancy and improvement of the Port of Calcutta; It is hereby enacted as follows:—

Justices to cease to be Trustees.

I. From and after the passing of this Act the Justices of the Peace for the Town of Calcutta incorporated under Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council, shall cease to be Trustees for carrying out the purposes of the said Act X of 1866.

Property of Port Fund to be vested in Secretary of State.

II. All property which at the time of the passing of this Act may be vested in the Justices under or by virtue of the said Act X of 1866, or otherwise for the purposes thereof, shall be, and the same hereby is, vested in the Secretary of State for India in Council, and the same and all monies to be raised or payable under the provisions of the said Act or of this Act, shall be applied for the purposes of the said Act and of this Act. Provided, always, that the right under the said Act of all creditors of the Justices shall continue as against the said Secretary of State in Council to the extent of the property hereby vested in him.

Administration of Port to be vested in Lieutenant-Governor.

III. Save as hereinafter is provided, the immediate administration of the powers and trusts in and by the said Act X of 1866 vested in the "Committee of Justices for the improvement of the Port of Calcutta," and all powers and authorities in and by the same Act vested in the Justices of the Peace for the Town of Calcutta, shall be vested in the Lieutenant-Governor and may be exercised by him, or, in case he shall by any writing under his hand commit the exercise of the same or of any portion thereof to any person or persons, by such person or persons so far as the same shall have been committed to him or them, subject, however, in all things to the control and supervision of the said Lieutenant-Governor of Bengal.

Lieutenant-Governor not to have power to raise money on debentures.

IV. Notwithstanding any thing in the said mentioned Act or in this Act contained, it shall not be lawful for the Lieutenant-Governor of Bengal, or any person appointed by him, to raise any money by debentures so as to charge the same on the said property hereinbefore mentioned, or on the tolls, duties, rates, or charges leviable under the said Act X of 1866 or this Act, save for the purpose of paying off any money which for the time being may be due on any debentures issued in pursuance of the said Act X of 1866.

Repeal of Sections.

V. From and after the passing of this Act the Sections of the said Act X of 1866 mentioned in the Schedule to this Act shall be repealed.

Construction.

VI. This Act shall be read together with and as part of the said Act X of 1866.

SCHEDULE OF LAWS REPEALED.

Number and date of Act.	Title.	Extent of Repeal.
Act X of 1866.	An Act for the improvement of the Port of Calcutta.	Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.

ACT No. V of 1869.

Passed by the Lieutenant-Governor of Bengal in Council.

(Received the assent of the Lieutenant-Governor on the 12th August 1869, and of the Governor-General on the 26th idem.)

An Act to empower the Lieutenant-Governor of Bengal to direct Courts of Session to be held in different towns in a District.

Preamble.

Whereas doubts have arisen whether cases committed for trial to any Court of Session can be legally tried by such Court at any place other than the usual place of sitting of the Court of Session or the Head-Quarters of the Magistrate of a District; and whereas it is expedient that such doubts should be removed, and that provision should be made for the various Courts of Session sitting at places other than their usual places of sitting, or the Head-Quarters of Magistrates of Districts; It is enacted and declared as follows:—

Trials may be held in any place in a District.

All trials which may have heretofore been held, or may hereafter be held, before any Court of Session at any place which may have been, or which shall be appointed by the Lieutenant-Governor and approved by the High Court as a place for holding such Court of Session, shall, if such place be within the District of the Judge of such Court of Session, although it be not the usual place of sitting of such Court, nor the Head-Quarters of the Magistrate of a District, be as good and valid in law as if the place at which they had been held had been the usual place of sitting of the Court of Session or the Head-Quarters of the Magistrate of a District.

ACT No. VI OF 1869.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 29th July 1869, and of the Governor-General on the 30th August 1869.)

An Act to provide for the recovery of Rates for Water supplied for purposes of Irrigation.

Preamble.

WHEREAS the proprietary right in certain works for the supply of water in the districts and deltas of the Rivers Mahanuddy, Byturny, and Brahmany, and their affluents, which formerly belonged to the East India Irrigation and Canal Company, has been vested in the Secretary of State for India in Council; and whereas it is expedient that provision should be made for the speedy recovery of rates or dues for water supplied for irrigation, and of claims connected with such rates and such water so supplied, and for the prevention of waste and abstraction of such water; It is hereby enacted as follows:—

Repeal of Sections 2, 3, and 4 of Act VIII of 1867.

I. Sections II, III, and IV of Act VIII of 1867, passed by the Lieutenant-Governor of Bengal in Council, are hereby repealed.

Provisions of Act VIII of 1867 to apply.

II. All other provisions of the said Act VIII of 1867 shall continue to be applicable notwithstanding the said change of proprietary right, except where they may be inconsistent with this Act.

Powers under Act VIII of 1867 to continue.

III. All powers vested in any Officers or Authorities by the said Act VIII of 1867 shall continue to be exercised by such Officers or Authorities notwithstanding the transfer of the said Canals to the Secretary

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of State for India in Council, except in so far as is otherwise provided by this Act.

Exercise of powers under Act VIII of 1867.

IV. All duties, authorities, and powers which by the said Act VIII of 1867 are imposed or conferred on the said Company or any of its Officers, shall, from and after the passing of this Act, be imposed and conferred on such Officers as the Lieutenant-Governor may appoint in that behalf, and shall be by such last mentioned Officers fulfilled and exercised accordingly.

Power to make Rules.

V. It shall be lawful for the Lieutenant-Governor, from time to time, by any writing signed by him, to make such Rules as to him shall seem meet, respecting the distribution of water from the said Canals, respecting the assessment of rates to be paid for the supply of water on agreements made, respecting the management and regulation of all works connected with Irrigation, respecting tolls to be levied on Navigable Irrigation Canals, and respecting the Officers who shall superintend the Irrigation works, the distribution of water, and the assessment of the rates, and from time to time in like manner to alter, vary, or revoke any such Rules; and every such Rule or alteration or revocation of a Rule shall, from and after it shall have been published in the *Calcutta Gazette*, have such and the same force and effect as if the same were a portion of this Act.

Water-rate to be deemed rent.

VI. All rates which shall be payable under this Act for water supplied for the purposes of irrigation shall be deemed rent payable on a pottah or engagement in respect of the land which shall have been irrigated by such water, and the provisions of every Act for the time being in force in the district in which such water may be supplied for the recovery of rent shall be applicable to the recovery of such arrears of water-rate, and such water-rate shall be recoverable by such and the same procedure and before such and the same Court, as rent due for the land for which such water shall have been supplied would for the time being be recoverable; and suits for the recovery of arrears of such water-rate shall not be cognizable by any other Court or in any other

manner. Provided that the claim (if any) for rent due in respect of such land shall have priority over any arrears of water-rate so far as regards recovery of rent by the exercise of the power of distraint, and all arrears of water-rate payable to any Collector shall be deemed to be demands within the meaning of Act VII of 1868 passed by the Lieutenant-Governor of Bengal in Council, and shall, in case the Collector shall think fit to proceed for the recovery of such arrears under the provisions of the said Act or of any other Act altering or amending the same, instead of by suit in any Court, be recoverable according to such provisions.

Jurisdiction in suits under this Act.

VII. All suits arising out of the exercise of the power of distraint for recovery of water-rates, or out of any acts done under color of the exercise of the said power of distraint; and all suits by persons in receipt of the water-rates against any agents employed by them in the collection of such water-rates, or the sureties of such agents, for money received, or for accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable, and all decrees and orders in such suits shall be made and executed, by such and the same Courts or authorities and in such and the same manner as if such water-rates were rent due for the land for the irrigation of which such water shall have been supplied, and such suits shall not be cognizable by any other Court or authority, nor in any other manner.

Construction of Act.

VIII. This Act shall be read with and as part of the said Act VIII of 1867.

ACT No. VII of 1869.

Passed by the Lieutenant-Governor of Bengal in Council.

(Received the assent of the Lieutenant-Governor on the 26th August 1869, and of the Governor-General on the 18th September 1869.)

An Act to amend the Constitution of the Police Force in Bengal.

Preamble.

Whereas it is expedient that the entire Police Establishment in the Provinces under the control of the Lieutenant-Governor of Bengal should cease to be one Police Force, and that the said Provinces should cease to be one General Police District under one Inspector-General; It is enacted as follows :—

Repeal of Section 2 Act V of 1861.

I. Section II of Act V of 1861 is repealed, so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal.

Power to divide the Provinces into Police Districts.

II. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to divide the said Provinces into as many General Police Districts as he may think fit : and from time to time to vary and alter any of such General Police Districts, or to consolidate two or more of such General Police Districts into one District, as he may think fit.

Power to appoint in Districts persons to execute duties of Inspector-General.

III. It shall be lawful for the said Lieutenant-Governor, in each such General Police District, to appoint some person to exercise in such District the powers of an Inspector-General of Police, whether such person shall or shall not hold any other office under the said Lieutenant-Governor; and the administration of the Police throughout such General Police District, and all powers

and authorities by the said Act V of 1861 or any other Act conferred on an Inspector-General of Police, shall be vested in such person.

Police Establishment in each District to be considered one Police Force.

IV. The entire Police Establishment in every such District shall, for the purposes of the said Act V of 1861, be deemed to be one Police Force, and shall be formally enrolled, and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such Force shall receive such pay, as shall from time to time be ordered by the said Lieutenant-Governor, subject to the sanction of the Governor-General of India in Council.

Power to employ Police out of District.

V. It shall be lawful for the Lieutenant-Governor to employ members of the Police Force who have been enrolled in, or appointed to any one General Police District, in any other General Police District within the Provinces subject to his control; and the powers conferred on Police Officers by the Code of Criminal Procedure may be by them exercised in any portion of the said Provinces without reference to the local limits of the General Police District to which they may respectively belong.

Construction of Act.

VI. This Act shall be read and taken in the Provinces under the control of the Lieutenant-Governor of Bengal as part of the said Act V of 1861.

ACT No. VIII OF 1869.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of the Lieutenant-Governor on the* 21*st August* 1869, *and of the Governor-General on the* 15*th October* 1869.)

An Act to amend the procedure in suits between Landlords and Tenants.

Preamble.

Whereas it is expedient to amend the procedure in suits between Landlords and Tenants in the Provinces subject to the Lieutenant-Governor of Bengal; it is enacted as follows:—

Interpretation of Collector.

I. In the construction of this Act the word "Collector" shall include a Deputy Collector in charge of a sub-division, or other officer exercising the powers of a Collector of a district or of a Deputy Collector in charge of a sub-division, by whatever designation such officer may be called.

Ryots entitled to a pottah.

II. Every ryot is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable a pottah containing the following particulars:—

The quantity and boundaries of the land; and, where fields have been numbered in a Government survey, the number of each field.

The amount of annual rent.

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The instalments in which the same is to be paid.

And any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered and the time and manner of delivery.

Ryots holding land at fixed rate to receive pottahs.

III. Ryots who, in any province to which this Act may apply, hold lands at fixed rates of rent, which shall not have been changed from the time of the Permanent Settlement of such Province, are entitled to receive pottahs at those rates.

Presumption if rent of land be not changed for 20 years.

IV. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a ryot in any such Province has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the Permanent Settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some latter period.

Ryots having rights of occupancy, but not holding at fixed rates, to receive pottahs.

V. Ryots having rights of occupancy, but not holding at fixed rates as described in the two preceding sections, are entitled to receive pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of ryot cultivating or holding land for 12 years.

VI. Every ryot who shall have cultivated or held land for a period of twelve years shall have a right of occupancy in the land so cultivated or held by him whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but his rule does not apply to Khomar, Neejjote, or Seer land belonging to the proprietor of the estate or tenure and let by him on lease for a term, or year by year, nor (as respects the actual cultivator) to lands sub-let for a term, or year by year, by a ryot having a right of occupancy. The holding of the father or other

person from whom a ryot inherits shall be deemed to be the holding of the ryot within the meaning of this section.

Saving of terms of written contracts.

VII. Nothing in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot, when it contains any express stipulation contrary thereto.

Pottahs to which ryots not having rights of occupancy are entitled.

VIII. Ryots not having rights of occupancy are entitled to pottahs only at such rates as may be agreed on betweem them and the persons to whom the rent is payable.

If, on trial of suit for delivery of pottah, parties do not agree as to the time for which the pottah is granted, Court to fix the time.

IX. If, on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy, the parties do not agree as to the terms for which the pottah is to be granted, the Court shall fix such term as under the circumstances of the case may seem just and proper; provided that the term shall not in any case be longer than ten years, and in estates not permanently settled, shall not extend beyond the period for which the proprietor of the estate has engaged with Government; provided also that if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest. For cultivators not having a right of occupancy the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

Proviso.

Person granting pottah entitled to a counterpart engagement.

X. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

XI. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provision of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator, from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Damages for exactions in excess of rent or for receipt withheld.
Form of receipt.

XII. All power at any time heretofore vested in zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than by suit or distress, or otherwise under the provisions of this Act.

Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.

Payment of rent to be enforced under this Act.

XIII. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Damages for extorting payment of rent by duress.

XIV. No under-tenant or ryot who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land

Enhancement of rent of ryot holding without, or after expiry, &c, of written engagements.

held or cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or ryot, in districts or parts of districts where the Fuslee year prevails, in or before the month of Jeyt, and in districts or parts of districts where the Bengalee year prevails, in or before the month of Poos, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collecter in whose jurisdiction the lands are situate, on the application (which may be on plain papers) of the person to whom the rent is payable, and shall, if practicable, be served personally upon the under-tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affixed at his usual place of residence; or, if he have no such place of residence in the district in which the land is situate, the mode of service of such notice shall be by affixing it at the Mál Cutcherry of such land or other conspicuous place thereon, or at the Village Chowree or Chowpal, or at some other conspicuous place in the village in which the land is situate.

Mode of contesting enhancement of rent.

XV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enhanced rent demanded of him either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent talookdar, &c., holding land at fixed rent without change since Permanent Settlement, not liable to enhancement of rent.

XVI. No dependent talookdar, or other person possessing a permanent transferable interest in land intermediate between the proprietor of an estate and the ryot, who, in any province to which the provisions of this Act may apply, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement, shall be liable to any enhancement of such

rent, anything in Section LI, Regulation VIII of 1793, or in any other law, to the contrary notwithstanding.

Rent of talookdar, &c., not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since the Permanent Settlement.

XVII. Whenever in any suit under this Act it shall be proved that the rent at which a talook or other tenure is held in the said provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such talook or tenure has been held at that rent from the time of the Permanent Settlement, unless the contrary be shown, or it be proved that such rent was fixed at some latter period.

Grounds on which ryot having right of occupancy is liable to enhanced rent.

XVIII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him, except on some one of the following grounds, namely :—

That the rate paid by him is below that prevailing in adjacent places.

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent.

That the value of the land, &c., has increased independently of the ryot.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the quantity of land held by the ryot is greater than he has paid rent for.

That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When ryot may claim abatement of rent.

XIX. Every ryot having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement

to be less than the quantity for which rent has been previously paid by him.

Relinquishment of land by ryot after notice given.

XX. Any ryot, who desires to relinquish the land held or cultivated by him, shall be at liberty to do so, provided he gives notice of his intention, in writing, to the person entitled to the rent of the land or his authorized agent, in districts or parts of districts where the Fuslee year prevails, in or before the month of Jeyt, and in districts or parts of districts where the Bengalee year prevails, in or before the month of Poos, of the year preceding that in which the relinquishment is to have effect. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land. If the person entitled to the rent of the land, or his agent, refuse to receive any such notice, and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector in whose jurisdiction the lands are situate, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in Section XIV.

What to be deemed an arrear of rent under this Act.

XXI. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of ryot to be ejected for arrear due.

XXII. When an arrear of rent remains due from any ryot at the end of the Bengalee year or at the end of the month of Jyet of the Fuslee or Willayuttee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due; provided that no ryot having a right of occupancy, or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

XXIII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected; provided that no such lease shall be cancelled nor the lease-holder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of farmer to have his lease cancelled for arrear adjudged due.

Proviso.

XXIV. All suits which under the provisions of the Act may be brought by or against zemindars or other persons in the receipt of the rent of land, may be brought by or against surburakars or tehsildars of estates held under khas management, whether such estates are the property of Government or of individuals.

Suits by or against surburakars or tehsildars of estates held khas.

XXV. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure has the right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the occupants of the lands.

Proprietor's right to survey and measure his estate.

XXVI. All dependent talookdars and other persons possessing a permanent transferable interest in land intermediate between the zemindar and the cultivator, are required to register, in the sheristah of the zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers when made in good faith, and all such successions and divisions; provided that no zemindar or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such

Registry of transfers of talookdars, &c.

division or distribution of rent be valid and binding without the consent, in writing, of the zemindar or superior tenant.

Limitation of certain suits.

XXVII. All suits instituted for the recovery of damages on account of the illegal exaction of rent, or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress, or on account of the excessive demand of rent, and all suits for abatement of rent, and all suits to eject any ryot or to cancel any lease on account of the non-payment of arrears of rent, or of the breach of the conditions of any contract by which a ryot may be liable to be ejected, or a lease may be liable to be cancelled, and all suits to recover the occupancy of any land, farm or tenure from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same, and all suits arising out of the exercise of the power of distraint for arrears of rent conferred on zemindars and others by this or any other Act or out of any acts done under color of the exercise of the said power, shall be commenced within the period of one year from the date of the accruing of the cause of action, and not afterwards.

Limitation of suits for grant of pottahs, &c.

XXVIII. Suits for the delivery of pottahs or kubooliyats and for the determination of the rates of rent at which such pottahs or kubooliyats are to be delivered, may be instituted at any time during the tenancy.

Limitation of suits for arrears of rent.

XXIX. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeyt of the Fuslee or Willayuttee year in which the arrear claimed shall have become due; provided that if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under Section XIII of Act X of 1859, or under Section XIV of this Act; and the enhancement not having been confirmed by any competent Court, the suit shall be institut-

ed within three months from the end of the Bengal year, or of the month of Jeyt of the Fuslee or Willayuttee year, on account of which such enhanced rent is claimed.

Limitation of suits against agents for money papers or accounts.

XXX. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent, may be brought at any time during the agency or within one year after the determination of the agency of such agent; provided that if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

Suit for further balance to be instituted within six months of service of notice of deposit.

XXXI. Whenever a deposit on account of rent shall have been made under the provisions of this Act, or of Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, no suit shall be brought against the person making the deposit, or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted within six months from the date of the service of the notice in Section V of the said Act VI of 1862, or in Section XLVII of this Act mentioned.

Naibs or Gomastahs to be deemed in certain cases authorized agents under Act VIII of 1859.

XXXII. Every Naib or Gomastah thereto specially authorized by any writing under the hand of his employer shall, for the purposes of all suits for any of the causes of action mentioned in Sections XXVII, XXVIII, XXIX, or XXX of this Act, be deemed to be the recognized agent of such employer within the meaning of Section XVII of the said Act VIII of 1859, though such employer may be within the jurisdiction of the Court in which such Naib or Gomastah may appear or make any application.

Cognizance of suits under this Act.

XXXIII. From and after the time when this Act shall commence and take effect in any place, the jurisdiction, save as regards any suits or proceedings then pending, of the Collectorate Courts in such place, under Act X of 1859 of the Governor-General in Council and Act VI of 1862 of the Council of the Lieutenant-Governor of Bengal, to entertain suits shall cease: and all suits brought for any cause of action arising under either of those Acts or this Act shall, from such time and in such place, be cognizable by the Civil Courts according to their several jurisdictions.

Proceedings to be regulated under Code of Civil Procedure.

XXXIV. Save as in this Act is otherwise provided, suits of every description brought for any cause of action arising under this Act, and all proceedings therein, shall be regulated by the Code of Civil Procedure passed by the Governor-General in Council, being Act No. VIII of 1859, and by such further and other enactments of the Governor-General in Council in relation to Civil Procedure as now are, or from time to time may be, in force; and all the provisions of the said Act and of such other enactments shall apply to such suits.

Jurisdiction in certain suits.

XXXV. The cause of action in suits brought for the delivery of any pottah or kubooliyat, or for the cancelment of any lease for the determination of rates of rent, for illegal exactions of rent, cess, or impost, for refusal of receipts for rent paid, for extortion of rent, for excessive demand of rent, for ejectment of rent, for arrears of rent, and for refusing to register transfers, successions, or divisions under Section XXVI, shall be deemed to have arisen within the jurisdiction of the Court which would have had jurisdiction to entertain a suit for the recovery of the land or other immoveable property in relation to which the cause of action rose, and shall be brought in such Court and in no other Court.

Provision when cause of action arises in different jurisdictions.

XXXVI. If the land which by the provisions of the next preceding section determines the place in which the cause of action in the suits in the said section mentioned shall be deemed

to have arisen, be situate within the jurisdiction of different Courts, the provisions of Sections XI and XII of the said Act VIII of 1859 shall apply to such suits, as if the same had been suits for the recovery of such land

Proceedings in case of opposition made to the measurement of land.

XXXVII. If any person intending to measure any land which he has a right to measure, is opposed in making such measurement by the occupant of the land; or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, the person claiming the right to measure such land may apply to establish his right to measure such land in the Court which would have jurisdiction in case such suit had been brought for the recovery of such land, and such Court shall hear and determine the right to make such measurement, and, if the case shall so require, shall make an order enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot, after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made, or any of the proceedings held, in his absence.

Measurement of land when it cannot be ascertained who are the persons liable to pay rent.

XXXVIII. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may apply to the Court which would have had jurisdiction in case a suit had been brought for the recovery of such lands, and such Court thereupon, and on the necessary costs being deposited therein by the applicant, shall order such lands to be measured, and shall cause a copy of such order to be transmitted to the Collector in whose jurisdiction the lands are situate, together with the sum so deposited for costs, and the Collector shall thereupon proceed to

measure such lands, and shall ascertain and record the names of the persons in occupation of the same, or, on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine, and record the tenures and under-tenures, the rates of rent payable in respect of such lands, and the persons by whom respectively the rents are payable. If after due enquiry the Collector shall be unable to cause such lands to be measured or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands, or any part thereof, then and in any such case such Collector may declare the same to have lapsed to the party on whose application such enquiry may have been made. If any person, within fifteen days after such Collector shall have recorded the name of such person as being in occupation of such land, or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and satisfy such Collector that there has been a failure of justice, such Collector may, upon such terms or conditions as may seem fit, alter or rescind such order according to the justice of the case.

Proceedings on completion of such measurement.

XXXIX. The Collector shall, as soon as conveniently may be, after he shall have finally completed any such measurement and record, return a copy thereof to the Court by which such measurement had been ordered, and such Court shall receive and record the same; and every decision of the Collector made in pursuance of the provisions of Section XXXVIII shall be appealable as if the same had been an order of the Court into which such copy had been returned, made upon the day on which such copy was so returned; but save as aforesaid, every decision of such Collector made in pursuance of the provisions of Section XXXVIII shall be final.

Collector's powers.

XL. The provision of the said Act VIII of 1859 and the Acts amending the same, or of any other Act or Acts for the time being in force in Civil Courts in Bengal, relating to the evidence of witnesses, to

procuring the attendance of witnesses and the production of documents, and to the examination, remuneration, and punishment of witnesses, shall apply to all proceedings before any Collector under Section XXXVIII, and for the purposes aforesaid, the Collector shall have all the powers and authorities in and by such Acts or any of them conferred upon the Court

Measurement to be made by the pergunnah pole.

XLI. All measurements made under this Act shall be made according to the standard pole of measurement of the pergunnah in which the land is situated.

Register of suits.

XLII. All suits brought under any of the provisions of this Act shall be entered in a special register of the Court kept for that purpose.

Form of plaint in suits for arrears of rent.

XLIII. In any suit hereafter to be brought for the recovery of an arrear of rent, the plaint shall specify the name of the village and estate, and of the pergunnah or other local division in which the land is situate, the yearly rent of the land, the amount (if any) received on account of the year of which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due. If the arrear is alleged to be due from any ryot, the plaint shall further specify the quantity of land ; and where fields have been numbered in a Government Survey, the number (if it be possible to give it) of each field.

The Court may in certain cases award to the plaintiff additional damages not exceeding 25 per cent.

XLIV. In any suit hereafter to be brought for rent under the provisions of this Act, if it shall appear to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due by him, and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly authorized agent, or in case of the refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount in the Court before the institution of the suit in manner hereinafter mentioned, it shall be lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding

twenty-five per centum on the amount of rent decreed, as the Court may think fit. These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of twelve per centum per annum from the date of decree until payment thereof.

The Court may award compensation not exceeding 25 per cent. on the amount sued for to a defendant improperly sued.

XLV. In any suit hereafter to be brought for rent under the provisions of this Act, if it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant had before the institution of the suit duly deposited in the Court, in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant, by way of compensation, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff as the Court may think fit; and such sum, with interest at the rate of twelve per centum per annum until payment thereof shall be recoverable from the plaintiff in like manner as sums ordered to be paid by decrees of such Court.

Under tenant or ryot may after tender, &c., pay into Court, without any action being brought against him, what he admits to be due to his zemindar, &c.

XLVI. If any under-tenant or ryot shall at the Mál Cutcherry for the receipt of rents or other place where the rents of the land or other immoveable property held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zemindar or other person in receipt of the rent of such land; and if the amount so tendered shall not be accepted, and a receipt in full shall not be forthwith granted, it shall be lawful for the under-tenant or ryot, without any suit having been instituted against him, to deposit such amount in the Court having jurisdiction to entertain a suit for such rent, to the credit of the zemindar or other person aforesaid: and such deposit shall, so far as the under-tenant or ryot, and all persons claiming through or under him, are concerned, in all

Payment into Court to have effect of payment to zemindar or other person entitled.

respects operate as, and have the full effect of, a payment then made by the under-tenant or ryot of the amount deposited to such zemindar or other person.

Proceedings on making a payment into Court and drawing out the money.

XLVII. Such deposit shall be received in such Court on the application of the under tenant or ryot, or his agent, made in writing, and on the under-tenant or ryot, or his agent, making a declaration in the form, or as nearly as circumstances will admit, in the form set forth in the Schedule (A) hereto annexed, and the Court shall give a receipt for the same under its seal. If the declaration shall contain any averment which the person making the declaration shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence. Upon receiving the money so deposited, the Court shall issue a notice to the person to whose credit it has been deposited, in the form set forth in the Schedule (B) hereto annexed; and such notice shall be served by the Court, without the payment of any fee, either upon the person to whom it is addressed, or upon his Naib, Gomastah, or other agent; and in the absence of any such agent, it shall be served by sticking up a copy of the same in the said Court, and another copy upon Mál Cutcherry for the receipt of rents, or other place where the rents are usually paid for the land in respect of which the money has been deposited. If the person to whom such notice is issued, or his duly authorized agent, shall appear, and apply that the money in deposit be paid to him, it shall be immediately made over to him.

After action brought, defendant may pay into Court, without costs, money tendered before action brought.

XLVIII. The defendant in any suit instituted under any of the provisions of this Act, may, if he have duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as such defendant may consider to be due to the plaintiff, without paying in any costs incurred by the plaintiff up to the time of such payment and such sum shall be

immediately paid out of Court to the plaintiff. If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

Costs, if plaintiff goes on and recovers no more.

XLIX. The defendant in any suit instituted under any of the provisions of the Act, may, without having made any tender before action brought, pay into Court such sum of money as he shall consider to be due to the plaintiff, together with the costs (to be fixed by the Court, if necessary, as of a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff. If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with costs as upon a suit originally instituted, for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

If no previous tender has been made, defendant may pay into Court what he admits to be due, with costs on that sum.

Costs, if plaintiff goes on with the suit.

L. No warrant of arrest before judgment shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure which may be liable to sale in execution of any decree which may be passed in the case.

No warrant of arrest before judgment.

LI. It shall be lawful for any person entitled to recover the possession of land under any of the provisions of this Act to include in his plaint a claim for the mesne profits of the land.

Mesne profits may be claimed in suits for recovery of land.

Suits for ejectment or cancelment of lease.

LII. Any person desiring to eject a ryot or to cancel a lease on account of non-payment of arrears of rent may sue for such ejectment or cancelment, and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment. In all cases of such suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount, together with interest and costs of suit, be paid into Court within fifteen days from the date of the decree execution shall be stayed.

Court to issue immediate execution in certain cases.

LIII. Whenever in any suit brought by any zemindar or other person in receipt of the rent of land, to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, the Court shall pass a decree in favour of the plaintiff; no application in the form provided in Section 212 of the said Act VIII of 1859 shall be necessary, but the Court shall forthwith, upon the plaintiff depositing in Court the necessary expenses, make an order for delivery of possession in execution of the decree: provided, however, that in cases to which Section LII of this Act is applicable, no such order shall be made until after the expiration of fifteen days from the date of the decree.

In such cases, execution not to be stayed pending appeal.

LIV. It shall not be lawful for the Court to entertain any application for stay of execution of any such order pending any appeal, and no person who shall have been evicted under any such order shall be restored to possession so long as the decree under which such order was issued shall remain unreversed.

LV. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuse to delay to grant the same, the Court may grant a pottah in conformity with the terms of the decree under the signature and seal of such Court, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

If person required by the decree refuse to grant pottah, Court may do so.

LVI. When a decree is given for the delivery of a kubooliyat, if the person required by the decree to execute such kubooliyat shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the signature and seal of the Court shall be of the same force and effect as a kubooliyat executed by the said person.

Refusal to execute kubooliyat as required by the decree.

LVII. Process of execution in any suit instituted under this Act may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both the person and property.

Process not to issue simultaneously against both person and property.

LVIII. No process of execution of any description whatsoever shall be issued on a judgment in any suit for any of the causes of action mentioned in Sections XXVII, XXVIII, XXIX, or XXX of this Act after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Court.

No execution to be issued after three years from date of judgment.

LIX. Whenever a decree may be passed for an arrear of rent due in respect of an under-tenure which by the title deeds or the custom of the country is transferable by sale, and the judgment-creditor shall make application for the attachment and sale of such under-tenure, the

Procedure on sale of under-tenure.

Court shall so soon as such under-tenure shall have been ordered to be sold, cause to be hung up in some conspicuous part of the building in which such Court sits, and of the buildings in which the Collector and Judge of the District within which the land comprised in such under-tenure is situate, and to be affixed on some conspicuous place on such land and on some conspicuous place in the town or village in or nearest to which such land is situate, a notice for the sale of such under-tenure on some fixed date not less than twenty days from the hanging up of such notice in such Court.

Contents of notice of sale of under-tenure.

LX. Every such notice shall specify in the words used in the plaint in the suit in which the decree was made, the name of the village, estate, and pergunnah, or other local division in which the land comprised in the said under-tenure is situated, the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree.

Under-tenures not to be sold while other execution in force.

LXI. No order for the sale of any such under-tenure shall be made in execution of a decree for recovery of arrears of rent payable in respect thereof, when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force. If, after sale of any such under-tenure in execution of such decree, any portion of the amount decreed remains due, process may be applied for and issued against any other property, moveable or immoveable, belonging to the debtor.

How the sale may be stayed by person interested in under-tenure.

LXII. If the sum due under the decree, together with interest to date of payment, and all costs of process be paid into Court at any time before the sale commences, whether by the defaulting holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place; and the provisions of Section 13 of Regulation VIII of 1819, for the recovery of sums paid by

persons other than the defaulting holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this Section.

If third party claim to be the lawful possessor of such under-tenure, Court to stay the sale and to enquire into and adjudicate upon the claim, upon decree being paid or secured.

LXIII. If after attachment and before sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, any third party may prefer a claim alleging that such third party and not the person against whom the decree has been obtained is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Court shall not postpone such sale, unless and until such third party shall have deposited in Court the amount of the decree, or given sufficient security for the same: provided always that no transfer of an under-tenure which, by the provisions of this Act or any other law for the time being in force, is required to be registered in the Sheristah of the zemindar or superior tenant, shall be recognized unless it has been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Court.

Non-registered transfers not to be recognized.

Execution of decrees given in favor of sharers in undivided estates or tenure.

LXIV. If a decree is given in favour of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, talook, or tenure, no order for the sale of such under-tenure in execution of such decree shall be made unless and until all moveable property (if any) which such judgment-debtor may possess within the jurisdiction of the Court in which the suit was instituted, shall have been seized and sold in execution of such decree, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section LIX, may be seized and sold in execution of such decree, according to the ordinary procedure of the Court and not in the manner provided in the said Section, and every

such sale shall have such and the same effect as the sale of any immoveable property sold in execution of a decree not being for arrears of rent payable in respect thereof.

Execution of judgment.

LXV. In the execution of any decree for the payment of any money under this Act, not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment creditor may apply for execution against any immoveable property belonging to such debtor.

Purchaser to acquire the under-tenure, with certain exceptions, free of incumbrances.

LXVI. The purchaser of an under-tenure under the provisions of Sections LIX and LX of this Act shall acquire it free of all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created, or by the subsequent written authority of the person who created it, his representatives or assignees, provided that nothing herein contained shall be held to entitle the purchaser of eject khood-khast ryots or resident and hereditary cultivators, nor to cancel *bona fide* engagements made with ryots or cultivators of the classes aforesaid by any holder of the under-tenure or his representatives, except it be proved in a regular suit to be brought by such purchaser for the adjustment of his rent, that a higher rent would have been demandable at the time such engagements were contracted by his predecessor. Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof through whose default the tenure was brought to sale.

Zemindar how to proceed if purchaser do not register.

LXVII. The purchaser of an under-tenure sold under this Act shall apply to the zemindar or other landholder within fifteen days from the day of sale to have his name registered in the zemindar or other landholder's books as the purchaser, and shall

execute a kubooliyet on the same terms and conditions on which the under-tenure was held by the defaulter; and if such application be not made within fifteen days, it shall be lawful for the zemindar or other landholder to sue the said purchaser for the delivery of a kubooliyet.

Produce of the land to be held hypothecated for the rent.

LXVIII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent, as defined in Section XXI of this Act, is due from any cultivator of land, the zemindar, lakhrajdar, farmer, dependent, talookdar, under-farmer, or other person entitled to receive the rent of such land immediately from the actual cultivator thereof, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due, under the following rules: provided always that, when a cultivator has given security for the payment of his rent, the produce of the land, for the rent of which security has been given, shall not be liable to distraint: provided also that no sharer in a joint estate, dependent talook, or other tenure in which a division of lands has not been made amongst the sharers, shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, talook, or tenure on behalf of all the sharers in the same.

Arrears of rent may be recovered by distraint under the following rules.

Cultivators who have given security to be exempt from distraint.

Proviso.

No distraint in certain cases.

LXIX. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint to be exercised by managers under the Court of Wards, &c.

LXX. The power of distraint vested by Section LXVIII in zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court

of Wards, surburakars, and tehsildars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by naibs, gomastahs, and other agents employed by any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney in that behalf: provided that if any illegal act is committed by any such naib, gomastah, or other agent under colour of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Proviso.

LXXI. Standing crops, and other ungathered products of the earth, and crops or other products when reaped or gathered, and desposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Standing crops, and crops gathered but not stored, liable to distraint.

LXXII. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Defaulter to be served with a written demand, &c., before or at the time of distraint.

LXXIII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with cost of the distress; and shall prepare a list or description of the

Distress to be proportionate to the arrear if not paid or tendered.

said property, and deliver a copy of the same to the owner, or if he be absent, affix it at his usual place of residence.

Standing crops, &c., when attached, to be reaped and stored by the cultivator, or, if he neglect to do so, by the distrainer.

LXXIV. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products, which from their nature do not admit of being stored, may be sold, before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products, or any part of the same, would be fit for cutting or gathering.

Distrainer may apply for aid to the Court upon occasion of resistance made or apprehended.

LXXV. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Court which under the provisions of this Act would have jurisdiction to entertain a suit for the rent for which such distrainer is about to distrain, and the Court may, if it thinks necessary, depute an officer to support the distrainer in making the distraint.

Persons empowered to distrain may give written authority to their servants to do so.

LXXVI. When any person, empowered to distrain property under Section LXVIII or Section LXX, shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

LXXVII. If at any time after property has been distrained and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same and shall forthwith withdraw the distress.

Distress to be withdrawn if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.

LXXVIII. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Court which would have jurisdiction to entertain a suit for the rent for which the distress was made.

Application for sale.

LXXIX. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and the date of the distress, and the place in which the distrained property is deposited. Together with the application, the distrainer shall lodge in Court the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Form of application.

Cost of notice upon defaulter to be deposited by distrainer.

LXXX. Immediately on receipt of any application under the provisions of the next preceding section, the Court to which such application shall have been made shall appoint an officer to conduct the sale of such property, and shall cause to be served a notice [which shall be in the form contained in the schedule (C) to this Act, or to the like effect] on the person whose property has been distrained requiring him either to pay the amount demanded, or to institute a suit to contest the demand before such Court within the period of fifteen days from the receipt of the notice; and shall at the same time cause to be affixed upon some conspicuous place in the Court-house a proclamation fixing a day for the sale of the distrained property, which shall not be

Procedure by Civil Court on receipt of application.

less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Sale to be suspended when suit instituted.

LXXXI. If a suit shall be instituted in pursuance of the aforesaid notice, the Court shall suspend proceedings in regard to the sale of the distrained property, and shall certify to the officer appointed to conduct the sale of such suspension.

Suit to contest distrainer's demand before issue of notice of sale.

LXXXII. Any person whose property has been distrained in the manner in this Act provided, may institute a suit to contest the demand, of the distrainer immediately after the distraint of his property, and before the issue of notice of sale; when such suit is instituted, the Court shall suspend proceedings in respect of the sale of such property.

Distress to be withdrawn on receipt of court's certificate that the owner has executed a bond to pay amount of decree with interest and costs.

LXXXIII. The person whose property has been distrained, may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with sufficient security, binding himself and his sureties to pay whatever sum may be adjudged to be due from him with interest and costs of suit: and when such bond is executed, the Court shall give to the owner of the property a certificate to that effect, or, if so requested, shall serve the distrainer with notice of the same, and upon such certificate being presented to the distrainer by the owner of property, or served on him by order of the Court, the property shall be released from distraint.

Value of claim in suits disputing distress.

LXXXIV. The estimated value of the claim made in any suit filed under the provisions of sections LXXX LXXXII, and XCVI, or any of them shall be deemed to be the amount of arrears of rent for which the distraint shall have been made.

On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.

LXXXV. On the expiration of the period fixed in the proclamation of sale, if a suit to contest the demand of the distrainer be not in the meantime instituted in the Court and certified to the officer appointed to conduct the sale, such officer shall, unless the said demand, with such costs of the distress as shall be allowed by him be discharged in full, proceed to sell the property, or such part of it as may be necessary, in the manner hereinafter prescribed.

Place and manner of sale of distrained property.

LXXXVI. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazar, haut, or other place of public resort, if the officer appointed to conduct the sale should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots as such officer holding the sale may think advisable: and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price be not offered, sale may be postponed to another day, and shall be then completed at whatever price may be offered.

LXXXVII. If on the property being put up for sale a fair price, in the estimation of the officer holding the sale, be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day or the next market day, if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

LXXXVIII. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the officer holding the sale shall think necessary; and in default of such payment, the property shall be put up again and sold. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale.

LXXXIX. From the proceeds of the sale of distrained property, the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall transmit the amount to the Court, in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section LXXX, to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made, with interest thereupon up to the day of sale; and if there be any overplus, it shall be delivered to the person whose property shall have been sold.

Officers holding sales prohibited from purchasing.

XC. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such Officers, who are prohibited from purchasing either directly or indirectly, any property sold by such Officers.

All irregularities to be reported to the Court.

XCI. Officers holding sales of distrained property are required to bring to the notice of the Court any material irregularities committed by distrainers under colour of this Act; and if in any case, on proceeding to hold a sale of property, such Officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under Section LXXX, or pass such other order as may seem proper.

Recovery of expenses if Officer proceed to place of sale and no sale take place.

XCII. When any such Officer has proceeded to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in the last preceding Section or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to

such Officer, the charge of one anna in the rupee on account of expenses shall be leviable, and shall be calculated on the estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary. In all other cases the Court shall make an order that such expenses shall be paid by the distrainer, and shall in such order fix the amount to be paid by him; such amount not to exceed the sum of ten rupees: and the amount by such order directed to be paid may be recovered from such distrainer as if such order were a decree of such Court.

Proceedings of Officers, &c., subject to revision and orders of Court.

XCIII. All proceedings under this Act of the Officers appointed to hold sales of distrained property shall be subject to the revision and orders of the Court to which they respectively are attached, and the Court may require the submission of such reports and statements of business performed by such Officers as may be thought necessary.

Second proclamation of sale.

XCIV. When a suit has been instituted to contest the demand of a distrainer, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the Officer appointed to conduct the sale of such property and furnish a copy of such order to the distrainer, authorising the sale of the property; and on the application of the distrainer, which shall be made within five days from the receipt by him of such copy of such order, such Officer shall publish a second proclamation, in the manner prescribed in Section LXXX, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress, including any costs of suit which may be ordered to be paid by the person instituting such suit, be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure after institution of suit to contest distrainer's demand.

XCV. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself instituted a suit for the amount. If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer, together with such costs of suit as to such Court may seem proper, and the amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been withdrawn, and if any balance remain due after such sale by execution of the decree against the person and any other property of the defaulter, or if the property has been released on security, by execution of the decree against the person and property of the defaulter and of his surety. If, on the other hand, the distraint is adjudged to be vexatious or groundless the Court, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require, and may decree the costs of the suit to be paid by the distrainer.

Any person whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer.

XCVI. If any person shall claim as his own property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person to try the right to the possession of the property in such Court, and in like manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand. When any such suit is instituted, the property may be released upon security being given for the value of the same. If the claim is dismissed, the Court shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer, and for payment of such costs of suit to such distrainer, as to such Court shall seem fit If the claim is upheld, the Court shall

decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require: provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land; nor shall any attachment in execution of a judgment or decree of any Court prevail against such prior claim.

Persons prevented from suing in time to save their property from sale may sue for damages.

XCVII. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by Sections LXXXII and XCVI, and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by any illegal act of distrainer.

XCVIII. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precautions for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

XCIX. If any person not empowered to distrain property under Sections LXVIII and LXX of this Act, nor employed for the purpose under a written authority by a person so empowered, shall under colour of

this Act distrain or sell or cause to be sold any property, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale. The said person shall, when the act complained of does not amount to criminal trespass, be liable to fine which may extend to three hundred rupees or to imprisonment, simple or rigorous, which may extend to two months, or to both, in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

C. Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of the occurrence of the cause of action.

Procedure on resistance to distraint, &c.

CI. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Court which would have jurisdiction in a suit for the rent for which such distraint was made, shall, upon complaint being made within fifteen days from the date of such resistance or removal, cause the person accused to be arrested; and if the offence be proved, and the offender be the owner of the property, shall order him to be imprisoned in the Civil Jail for six months, or until the whole arrear due to the distrainer, with all expenses and costs, shall be paid or levied by attachment and sale of the property of the offender under warrant of the Court. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment for a period not exceeding two months.

No appeal from any decree of the District Judge for money below one hundred rupees, unless it involve the right to enhance rent or a title to land.

CII. Nothing in this Act contained shall be deemed to confer any power of appeal in any suit tried and decided by a District Judge, originally or in appeal, if the amount sued for, or the value of the property claimed, does not exceed one hundred rupees, in which suit a question of right to

enhance or vary the rent of a ryot or tenant, or any question relating to a title to land or to some interest in land as between parties having conflicting claims thereto, has not been determined by the judgment.

Review of judgment.

CIII. No application for a review of any judgment or order passed in any suit brought under the provisions of this Act shall be received by any Court after the expiration of thirty days from the date of such order or judgment, but nothing in this section contained shall be deemed to apply to the High Court of Judicature at Fort William in Bengal.

Small Cause Court not to have jurisdiction.

CIV. Nothing in this Act contained shall be deemed to confer upon any Court sitting as a Court of Small Causes cognizance of any suit brought under the provisions of this Act, of which it would not have had cognizance if this Act had not been passed.

Power to issue process free of charge.

CV. If in any case the Court is satisfied that a party is unable to pay the cost of any necessary process in any suit under this Act, it may direct such process to be served free of charge.

Application of Act.

CVI. This Act shall take effect in those districts in the Provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the *Calcutta Gazette*, and thereupon this Act shall commence and take effect in the districts named in such order at the day and time which shall be in such order provided for the commencement thereof.

Certain enactments to cease to have operation in places in which this Act takes effect.

CVII. When and so soon as this Act shall commence and take effect in any district, the various provisions mentioned in Schedule (D) hereto annexed shall cease to have operation or effect in such district, save so far as they repeal or modify any other Regulations or Acts, and save so far as regards suits of proceedings which before the time of the commencement of this Act shall have been instituted before any Collector.

Pending suits to be carried on under former practice.

CVIII. Whenever any suit or other proceeding under the provisions of the Acts in the Schedule (D) mentioned, or of any of them, shall at the time when this Act comes into operation in any place have been instituted before any Collector or other Officer having under the provisions of the same Acts or of any of them jurisdiction in such suit or proceeding, such suit or proceeding and all appeals therein shall be heard and determined, and execution of any decree or order therein shall be had, and the practice and procedure therein shall be such and the same, as if this Act had not been passed.

Act not to affect powers conferred by the Chota Nagpore Tenures' Act

CIX. Nothing in this Act contained shall be deemed to take away or abridge any power or authority conferred by an Act passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to ascertain, regulate, and record certain tenures in Chota Nagpore, or any person appointed to be a special Commissioner thereunder or on the Commissioner of the Division of Chota Nagpore.

Act VII of 1868 saved

CX. Nothing in this Act contained shall in any way affect any of the provisions of Act VII of 1868 of the Council of the Lieutenant-Governor of Bengal for the recovery of arrears of land revenue and other demands recoverable as arrears of land revenue.

Short title

CXI. This Act shall be called "The Landlord and Tenant Procedure Act, 1869."

SCHEDULE A.

(Referred to in Section XLVII.)

I, A. B., of, &c., do solemnly declare that I did personally (or by my Agent, C. D), on the day of tender payment to E. F. at his Mâl Cutcherry (or at) the place where the rent of the lands at held or cultivated by me under or from the said E. F. are usually payable, of the sum of Rupees as and for the whole amount

due from me in respect of the rent of the said lands from the month of to the month of both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same); and I do declare that, to the best of my belief, the sum of Rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of to the month of both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

SCHEDULE B.

(*Referred to in Section XLVII.*)

Court of

Dated the day of 18 .

To E. F. of, &c.

WITH reference to the within declaration, you are hereby informed that the sum of Rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized Agent on application; and take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

[Copy of declaration in Schedule A to be annexed.]

SCHEDULE C.

(*Referred to in Section LXXX.*)

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Court of

A. B., Distrainer.

(*Name, description, and address of the owner of the property.*)

WHEREAS the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged

to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B. or to institute a suit in the Court of to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 18 .

SCHEDULE D.

(*Referred to in Sections CVII and CVIII.*)

Being Acts made inoperative in Districts in which this Act is in force.

DATE AND NO. OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
Act X of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council.	An Act to amend Act X of 1859.	The whole Act.
Act IV of 1867, passed by the Lieutenant-Governor of Bengal in Council.	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council and to give validity to certain judgments.	The whole Act.

W LeB. and J. E S.—Reg. No. 9562G—300 - 14-11-83.

Act No. I of 1870.

Passed by the Lieutenant-Governor of Bengal in Council.

(Received the assent of His Honor on the 19th February 1870, and of the Governor-General on the 22nd idem.)

An Act to empower the Justices of the Peace for the Town of Calcutta to levy a water-rate on the Town.

Preamble.

Whereas it is necessary to provide funds for meeting the expenses connected with the water-supply works for the Town of Calcutta, and whereas the Justices are not now in a position to assess a water-rate under the provisions of Section XIII. of Act IX. of 1867, passed by the Lieutenant-Governor of Bengal in Council, it is enacted as follows :—

Repeal of clauses.

I. From and after the passing of this Act the portions of Acts set forth in the Schedule hereto are repealed.

Justices to assess water-rate.

II. The Justices shall forthwith at a special general meeting assess upon all houses, premises, and lands within the Town of Calcutta a water-rate for the year 1870, and shall likewise, in the manner and at the times provided in Act VI. of 1863 (passed by the Lieutenant-Governor of Bengal in Council) for fixing taxes, assess a water-rate for each succeeding year.

Amount of water-rate.

III. Every such water-rate shall be sufficient to provide, from the estimated proceeds thereof to be collected within the year, for the payment during the year for which it is assessed of all the current necessary

[*Price one anna.*]

expenses of the water-supply of Calcutta and of all necessary expenses and charges connected therewith, and of the expenses within the year of all necessary amendments and reparations, and of the expenses within the year of any extension of the said water-supply works which may be sanctioned by the Lieutenant-Governor, and of the interest of such monies as may have been or may hereafter be borrowed for the construction of the said water-supply works, and of the sinking fund which has been or may hereafter be formed for the re-payment of the said monies: Provided always that no such annual rate shall exceed five per cent. of the annual value of the houses, premises, and lands assessed therewith.

Water-rate to be payable quarterly in advance.

IV. Every such water-rate shall be payable by four equal quarterly instalments, each payable in advance upon the 1st day of January, the 1st day of April, the 1st day of July, and the 1st day of October in each year; the first of such instalments to be deemed to have been payable on the 1st day of January 1870.

Water-rate to be payable by owners.

V. Subject to the provisions of the last preceding Section, every such water-rate shall be assessed upon and payable by the persons and in the manner provided for the levy of the rate mentioned in Section LV. of the said Act VI. of 1863.

Powers for recovery of water-rate.

VI. All the powers and provisions for the time being in force for the recovery of the said rate mentioned in Section LV. of the said Act VI. of 1863, shall apply to the recovery of any water-rate imposed under this Act.

Owner of land to be deemed owner of house thereon situate.

VII. For the purposes of this Act the owner of any land upon which any house or tenement is situate shall be deemed to be the owner of such house or tenement, and shall be liable to the payment of the water-rate payable in respect of such house or tenement.

Owners paying water-rate to be repaid three-fourths by occupying tenants.

VIII. Whenever the person from or by whom any such water-rate shall have been recovered or paid shall not be the occupying tenant of the house, premises, or land in respect of which such rate shall have been assessed, it shall be lawful for such person, if there shall be but one occupying tenant of such house, premises, or land, to recover from such occupying tenant three-fourths of the water-rate which shall have been so paid by such person, and if there shall be more than one occupying tenant of such house, premises, or land, to recover from each of such occupying tenants such sum as shall bear to three-fourths of the entire amount of water-rate which shall have been so paid by such person, the same proportion as the value of the portion of such house, premises, or land in the occupation of such occupying tenant, bears to the entire value of such house, premises, or land.

Owner of land on which house situate to recover three-fourths of rate from owner of house.

IX. Whenever the owner of any land on which any house or tenement may be situated shall not be the owner of such house or tenement, and shall have paid the rate for such land and for such house or tenement, it shall be lawful for him to recover from the owner of such house or tenement, in addition to three-fourths of the water-rate payable in respect of such land, the entire amount of the water-rate payable in respect of such house.

Power to recover sums payable by occupier as rent.

X. Every person who, under the provisions of either of the two preceding Sections, may be entitled to recover any sum from any occupying tenant or other person shall have for the recovery of such sum all such and the same remedies, powers, rights, and authorities as if such sum were rent payable to him by such occupying tenant or other person in respect of such house, premises, or land.

Tenant subletting to different persons to be deemed occupier.

XI. Whenever any tenant holding any house, premises, or land, at a rent from the person liable to pay to the Justices the water-rate under this Act, has or may sublet the same to different persons holding in severalty, such tenant shall, for the purposes of this Act, be deemed the occupying tenant of such house, premises, or land.

Three-fourths of rate remitted for unoccupied houses.

XII. Three-fourths of the water-rate assessed under this Act on any house, premises, or land shall be remitted for the period during which such house, premises, or land may remain unoccupied.

Refund of water-rate to owners of unoccupied houses.

XIII. Whenever any quarterly instalment of water-rate shall have been paid in respect of any house, premises, or land, and such house, premises, or land shall, during the quarter for which such instalment shall have been paid, cease to be occupied, the person who shall have paid such water-rate shall be entitled to be repaid by the Justices three-fourths of such sum as shall bear to the amount paid by him the same proportion which the residue of the quarter, after notice in writing of such cessation of occupation shall have been given to the Justices, bears to an entire quarter.

Rate payable for houses becoming occupied.

XIV. Whenever any house, premises, or land, which shall have been unoccupied, shall be occupied during any quarter, there shall be forthwith payable in respect of such house, premises, or land such amount of water-rate as shall bear to an entire quarterly instalment of water-rate for such house, premises, or land the same proportion as the residue of such quarter after such house, premises, or land shall be occupied bears to an entire quarter.

Refund to occupier on termination of occupation.

XV. Whenever any occupier of any house, premises, or land shall pending any quarter cease to occupy such house, premises, or land, he shall be liable, under the provisions of Section VIII, to repay to the person by whom the water-rate of such house, premises, or land

is payable, such part only of the quarterly instalment of water-rate payable in respect of such quarter, as shall bear to three-fourths of such quarterly instalment the same proportion as the period which shall have elapsed from the first day of such quarter till he cease to occupy shall bear to the entire quarter; and in case he shall have repaid to the person who shall have paid such quarterly instalment to the Justices any sum greater than such part, he shall be entitled to recover from such person any sum which he may have paid in excess of such part or to deduct the same from any rent due to such person.

Allowance to owners for prompt payment of water-rates.

XVI. It shall be lawful for the Justices to allow, to any person liable under this Act to pay to them any sum on account of water-rate, an abatement of two per cent. upon every quarterly instalment of water-rate which shall be paid by such person into the office of such Justices within one month after the same shall have become payable, and for the purposes of this section the instalment which, under the provisions hereinbefore contained, is made payable on the 1st day of January 1870, shall be deemed to be payable forthwith on the first rate being assessed under the provisions of this Act.

Power to require owner to provide works for water-supply.

XVII. It shall be lawful for the tenant holding direct from the owner of any house or land, by notice in writing signed by him, to require the owner of such house or land to perform all such necessary works as may be required for bringing into such house or land a proper and sufficient supply of water for domestic purposes. Every such notice shall contain an agreement on the part of such tenant to pay interest at the rate of one per cent. per mensem, calculated from the date of the completion of the works, on the cost of such works during the residue of his term: Provided that in case the house or land held by such tenant shall not abut upon some street in which there is a supply-main, such tenant shall, in the said agreement, undertake to pay the cost of connecting his tenement with the nearest supply-main.

XVIII. The supply to a house shall not be deemed sufficient for domestic purposes unless it provides the necessary works for and with taps not exceeding two in each floor of such house, one other such tap in the cook-room of or attached to such house, and one other such tap in the premises, or in or near the stables of or attached to such house: Provided that if the annual rent of such house shall be less than three hundred Rupees, it shall be sufficient to provide the necessary works for and with one tap only within the said premises.

What works to be employed.

XIX. In case any owner shall not within the space of six months from the service of such notice cause such necessary works as aforesaid to be completed, it shall be lawful for the tenant who shall have given such notice to cause such necessary works to be completed, and to deduct from the rent payable by him the cost of such works, save so much of such cost as may be incurred in connecting with a supply-main any tenement which may not abut upon a street in which there may be a supply-main, such deduction to be made by six equal monthly instalments. Interest on each such instalment shall be payable to the owner by the occupier at the rate of one per cent. per mensem, from the time when it shall have been so deducted.

Power to tenant to make works in default of owner.

XX. No works for introducing a supply of water into any house or land shall be commenced by the owner without sending a specification and estimate of the cost thereof to the tenant, nor by the tenant without sending such specification and estimate to the owner.

Estimate and specification of works to be sent.

XXI. In case there shall be any difference between the owner and the tenant respecting the cost or the sufficiency of the proposed works, it shall be lawful for such owner or such tenant to refer such difference to the Justices, and the written award of the Engineer of the Justices, or of any officer authorized by the Justices in that behalf, shall be binding on the owner and the tenant.

Power of arbitration.

XXII. There shall be payable to the Justices in respect of every such reference a fee at the rate of two Rupees for every hundred Rupees of the monthly rent of the house in respect of the water-supply to which the difference may have arisen: Provided that such fee shall in no case exceed ten Rupees; and such fee shall be paid by the person making such reference.

Tax on reference.

XXIII. Any occupier, upon or after whose requirement as aforesaid any works for the supply of water shall have been introduced into any house or land, shall during his term be bound to bear the expense of keeping such works in substantial repair.

Tenant making requisition to keep works in repair.

XXIV. It shall be lawful for any owner to whom any sum is payable under the provisions of Section XVII. or Section XIX. to recover such sum from the person liable to pay the same as if the same were rent payable by the person so liable.

Power of recovery of sums payable.

XXV. This Act shall be construed with and as part of Acts VI. of 1863, VI. of 1866, and IX. of 1867, passed by the Lieutenant-Governor of Bengal in Council.

Construction of Act.

XXVI. This Act may be called "The Calcutta Water-rate Act, 1870."

Short Title.

SCHEDULE.

Portions of Acts Repealed.

No. of Act.	Title.	Extent of repeal.
Act VI. of 1863 (B. C.)	An Act to vest the property of the Town of Calcutta and the management of its municipal affairs in a Corporation, and to make better provision for the conservancy and improvement of the Town and for the levying of rates and taxes therein.	So much of Sections LXII. and LXV. as relates to water-rate.
Act IX. of 1867 (B. C.)	An Act to amend Act VI. of 1863 and Act VI. of 1866, passed by the Lieutenant-Governor of Bengal in Council.	Sections XII. and XIII. So much of Sections XIV. and XV. as relates to water-rates.

ACT No. II OF 1870.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of His Honor on the 9th September* 1869, *and of the Governor-General on the* 16*th March* 1870.)

An Act to consolidate and amend the law relating to the transport of laborers to the districts of Assam, Cachar, and Sylhet, and their employment therein.

Preamble.

WHEREAS it is expedient to consolidate and amend the law regulating the transport of native inhabitants of India from or through the provinces subject to the Government of Bengal, to the districts of Assam, Cachar, and Sylhet, and the manner of engaging and contracting with native inhabitants of the said provinces to proceed to the said districts, and providing for the protection of the persons so proceeding, and for the enforcement of the contracts of service entered into by them ; It is enacted as follows :—

Interpretation.

I. The following words in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

"Magistrate."

The word "Magistrate" in this Act shall include any officer vested with the full powers of a Magistrate, and any Magistrate of Police for the Town of Calcutta.

"Contractor."

The word "Contractor" in this Act shall be taken to mean a person licensed under the provisions of this Act as a Contractor.

"Recruiter."

The word "Recruiter" shall be taken to mean any person licensed under the provisions of this Act as a Recruiter.

[*Price* 5 *annas* 6 *pies.*]

"Employer."

The word "Employer" shall mean the chief person in charge of any lands upon which laborers may be employed.

"Garden Sirdar."

The words "Garden Sirdar" shall mean any person authorized by an employer, under the provisions of this Act, to engage laborers.

"Superintendent."

The word "Superintendent" shall mean any officer appointed by the Lieutenant-Governor of Bengal to perform all or any of the duties of a superintendent of labor transport under this Act.

"Steamer."

The word "Steamer" shall include any vessel propelled by steam, and any flat or barge towed by a steamer.

"Master."

The word "Master" shall mean the person for the time being in charge of a steamer.

"Manjee."

The word "Manjee" shall mean the person for the time being in charge of a boat.

"India."

The word "India" shall mean any of the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., chap. 106, entitled "An Act for the better Government of India."

"Laborer."

The word "Laborer" shall mean any person who has heretofore, under the provisions of Act III of 1863 and Act VI of 1865, passed by the Lieutenant-Governor of Bengal in Council, entered, or shall hereafter, under the provisions of this Act, enter into a contract by which he has been or is to be conveyed to the place of labor at the expense of the employer contracting with him.

"Inspector."

The word "Inspector" shall include any officer appointed by the Lieutenant-Governor of Bengal to perform all or any of the duties of an Inspector under this Act, and any Protector appointed under the said last mentioned Acts.

"The said Districts."

The expression "The said Districts" shall mean the districts of Assam, Cachar, and Sylhet.

II. From and after the commencement of this Act, whoever shall, otherwise than under the provisions of this Act, engage any native inhabitant of India in any of the provinces subject to the Government of Bengal, to proceed to any or either of the said districts for the purpose of laboring there for hire; and whoever shall, otherwise than under the provisions of this Act, convey any native inhabitant of India through any of the said provinces to any or either of the districts aforesaid for the purpose of laboring there for hire, shall be liable to a fine for every person so engaged or conveyed: Provided always that, save, as hereinafter is expressly enacted, nothing in this Act shall apply to any engagement made in any or either of the said districts.

Natives of India shall not be engaged to proceed to Assam, &c., or be conveyed there save under this Act.

Penalty.

Proviso.

III. For the purpose of this Act it shall be lawful for the Lieutenant-Governor of Bengal to appoint superintendents of labor transport and medical inspectors of laborers at any places where he may think proper: and whenever any superintendent or medical inspector shall be so appointed, the Lieutenant-Governor of Bengal shall, by notification in the *Calcutta Gazette*, define the local limits within which such superintendent or medical inspector shall exercise the powers and authority conferred on him by this Act. When such local limits shall have been so defined, no other superintendent or medical inspector shall, within those limits, exercise any of the powers vested in a superintendent or medical inspector by this Act.

Lieutenant-Governor may appoint superintendents of labor transport and medical inspectors of laborers.

IV. Whoever, not being a contractor, recruiter, or garden sirdar, shall, otherwise than through or by the agency of a contractor or garden sirdar, engage any native inhabitant of India to proceed to any of the said districts for the purpose of laboring therein for hire; and whoever, not being a contractor, shall enter into any contract to

No person not licensed as a contractor, recruiter, or garden sirdar, may engage or contract to supply laborers.

supply, or shall supply, or shall transfer or make over, whether to a recruiter or any other person, any such native inhabitant for the purpose of laboring for hire in any of those districts; and whoever, not being a contractor, recruiter, or garden sirdar, shall enter into any contract to engage, or shall attempt to engage, any such native inhabitant to proceed to any of those districts for the purpose aforesaid; and whoever shall employ or appoint any person other than a contractor, recruiter, or garden sirdar, to engage any such native inhabitant, shall be liable for each offence to fine or imprisonment, simple or rigorous, for a term not exceeding three months.

Penalty.

V. It shall be lawful for any superintendent appointed under this Act to grant to such persons, as he may think fit, licenses, in the form set forth in Schedule (A) to this Act annexed, to act as contractors for engaging and supplying persons for the purpose of laboring for hire in the said districts or any or either of them. For every such license a fee not exceeding one hundred rupees (the amount of which fee shall from time to time be fixed by the Government of Bengal) shall be paid to the superintendent granting the same; and every such license shall be in force for one year and no longer.

Superintendent may grant licenses to contractors.

VI. Every contractor shall forthwith, upon obtaining his license, establish a depôt in a place to be approved of by such superintendent. Every such depôt shall be maintained by such contractor for the reception of native inhabitants of India to be supplied or forwarded by or through him. All such native inhabitants shall, on their arrival at or in the neighbourhood of the depôt so established by the contractor by, through, to, or for, whom they were engaged or forwarded, be forthwith by such contractor taken thereto, and received therein, and shall receive in such depôt, at the expense of such contractor, suitable lodging, food, clothing, and medical attendance, until such native inhabitants shall be declared by the superintendent to be no longer thereto entitled. Every such depôt as aforesaid shall

Contractors shall keep up depôts and receive and maintain laborers therein.

be under the supervision of the superintendent, and shall be open to his inspection and to the inspection of the medical inspector at all times, and shall be managed and regulated by the contractor in accordance with such rules as the superintendent may, with the sanction of the Lieutenant-Governor of Bengal, from time to time make and publish in the *Calcutta Gazette* in that behalf.

Contractor to give superintendent such information as he may require.

VII. It shall be the duty of every contractor to afford such information to the superintendent by whom he is licensed and to make such returns and reports to him as such superintendent, with the sanction of the Lieutenant-Governor of Bengal, may from time to time require.

Superintendent may license recruiters.

VIII. It shall be lawful for any superintendent to grant to such persons as he may think fit, licenses, in the form set forth in the Schedule (B) to this Act annexed, to act on behalf of some contractor as recruiters for engaging persons to proceed to the said districts for the purpose of laboring for hire. For every such license a fee not exceeding sixteen rupees (the amount of which fee shall from time to time be fixed by the Government of Bengal) shall be paid to the superintendent granting the same; and every such license shall be in force for one year, from the date thereof, and no more.

Superintendent may cancel the license or certificate of a contractor, recruiter, or garden sirdar.

IX. It shall be lawful for any superintendent, in case of the misconduct of, or the disobedience to or neglect of any of the provisions of this Act by a contractor, recruiter, or garden sirdar, to cancel the license or certificate of such contractor, recruiter, or garden sirdar.

Recruiter to wear a badge.

X. Every recruiter shall wear a badge, having legibly inscribed thereupon, in the Oordoo and Bengalee languages, the name of the district or districts to which he is licensed to engage laborers to proceed, and shall hold a written pass signed by the contractor on whose behalf he is licensed to act.

Employer may engage laborers through a garden sirdar.

XI. It shall be lawful for any employer to engage, through or by the agency of a garden sirdar, native inhabitants of India to proceed to any of the said districts for the purpose of laboring there for hire upon lands of which such employer is in charge.

Garden sirdar to exhibit to Magistrate a certificate.

XII. Every such garden sirdar shall, before proceeding to engage any such native inhabitants, personally present to the Magistrate in charge of the district, within which are situate the lands of which the employer by whom such garden sirdar is deputed is in charge, a certificate signed by such employer, in which shall be stated the name and description of such garden sirdar, the name and description of the lands, for the purpose of laboring upon which he is about to engage native inhabitants of India, the district in which he is about to engage such native inhabitants, the number of inhabitants which he is authorized to engage, and whether he is authorized to take such inhabitants to a licensed depôt.

Magistrate to countersign certificate.

XIII. Such Magistrate shall enquire into the facts stated in such certificate, and, upon being satisfied that the same are true, shall, unless it appears to him that the person so presenting such certificate is unfit to be employed for the purpose of engaging such native inhabitants, countersign and date such certificate, and such certificate shall be available for six months after the date last mentioned.

Garden sirdar authorized to engage more than twenty inhabitants, to be subject to provisions of Act as recruiter.

XIV. If, under his certificate from his employer, any garden sirdar is authorized to engage more than twenty native inhabitants, he shall take such inhabitants to some depôt, established under the provisions of section VI, and shall be in all respects, save as regards his license, subject to the provisions of this Act with regard to recruiters.

Recruiter to obtain countersignature of Magistrate.

XV. No recruiter, nor garden sirdar, shall, in any sub-division in charge of a Magistrate, engage or attempt to engage native inhabitants of India to become laborers, without having first

exhibited his license or certificate to such Magistrate and obtained his countersignature thereon. No recruiter nor garden sirdar, shall, in any sub-division not in charge of a Magistrate, nor in any part of a district not being within a sub-division of a district, engage or attempt to engage native inhabitants of India to become laborers without having first exhibited his license or certificate to the Magistrate of the district and obtained his countersignature thereon. No recruiter, nor garden sirdar, shall so engage or attempt to engage such native inhabitants in the town of Calcutta, without having first exhibited his license or certificate to the Commissioner or Deputy Commissioner of Police for the said town, and obtained his countersignature thereon.

Magistrate to require accommodation to be provided before countersigning license of recruiter.

XVI. No Magistrate, or Commissioner, or Deputy Commissioner of Police, to whom any recruiter's license, or the certificate of any garden sirdar authorized to engage more than twenty native inhabitants shall have been exhibited for countersignature, shall countersign the same until the recruiter or garden sirdar exhibiting the same shall have satisfied such Magistrate, Commissioner, or Deputy Commissioner that sufficient accommodation has been provided and is available for the native inhabitants of India to be engaged by such recruiter or garden sirdar pending their removal to a depôt; and, subject to the aforesaid provision, every license or certificate shall be countersigned which is presented for countersignature during such time as such license or certificate is to be in force.

Magistrate to have powers of superintendent over accommodation provided.

XVII. The Magistrate in charge of any district or sub-division of a district in which there may be any such accommodation provided, shall have, for the supervision, management, and regulation of such accommodation, all such and the same powers and authorities as are vested in a superintendent of labor transport, for the supervision, management, and regulation of depôts, subject to the powers and authority of such superintendent.

XVIII. It shall not be lawful for any native inhabitant of India to be conveyed to or towards any of the said districts, unless and until he shall have entered into a duly registered contract with some person, to serve such person there for a fixed period, which shall in no case exceed the term of three years. Every such contract shall be reduced to writing, and shall specify the monthly amount of wages in money, the period of service, the name of the district in which the service is to be performed, and the price at which rice is to be supplied to the laborer, and shall be in such form as the Lieutenant-Governor of Bengal shall prescribe.

Every laborer to enter into a written contract to serve for some period not exceeding three years.

XIX. Every garden sirdar, authorized to engage not more than twenty native inhabitants, shall bring each native inhabitant engaged by him before the Magistrate of the district or in charge of the sub-division of the district in which the engagement took place, or before some other officer specially authorized in that behalf, or before the superintendent of labor transport at Calcutta, and shall produce his certificate to such Magistrate or other officer, or superintendent. He shall also state to the Magistrate or other officer, or superintendent, the names of the inhabitants engaged by him, and produce in respect of each the proposed contract according to the provisions of this Act ready for execution. Thereupon, the Magistrate or other officer, or superintendent, shall examine each such native inhabitant with reference to his proposed contract; and if it appears that he understands its nature as regards the locality, period, and nature of the service, the rate of wages, and the price at which rice is to be supplied, and that he is willing to perform the contract, the Magistrate or other officer, or superintendent, shall register in a book, to be kept in such form as the Lieutenant-Governor shall prescribe, the name of such inhabitant, the place at which it is intended he should embark, and the place at which he is to labor. If the Magistrate or other officer, or superintendent, shall be of opinion that such native inhabitant does not understand the nature of the proposed contract, or that he has

Contracts with laborers engaged by garden sirdars not authorized to engage more than twenty.

been engaged through fraud or misrepresentation, or if the garden sirdar shall not have produced his certificate, the Magistrate or other officer, or superintendent, shall refuse to register the name of such inhabitant; otherwise the Magistrate or other officer, or superintendent, shall cause such native inhabitant and the garden sirdar to sign the contract in duplicate in his presence, and the contract so signed shall be binding on the garden sirdar's employer.

Copy of registration of contract to be forwarded.

XX. The Magistrate or other officer, or superintendent, shall forward a copy of every registration made under the last preceding section, and a copy of every contract signed as aforesaid and attested by him, to the Magistrate of the district within which the laborer is to labor.

Garden sirdar to report arrival of laborers.

XXI. As soon as possible after the arrival of the garden sirdar with the laborers at the place of disembarkation, or at the nearest civil station in the districts last mentioned, the garden sirdar shall report himself to the Magistrate of that district, and such Magistrate shall check the number of laborers landed with the number of those registered, and shall report to the Superintendent of Labor Transport at Calcutta any deaths which may have occurred on the journey. Any garden sirdar who neglects to report himself as aforesaid shall be liable to imprisonment of either description, which may extend to three months.

Laborer recruited in the mofussil shall appear before medical officer for examination and certificate.

XXII. Every native inhabitant of India, who shall, in any place or town within the said provinces, enter into any engagement with any recruiter or any garden sirdar authorized by his certificate to engage more than twenty native inhabitants, to proceed to any of the said districts for the purpose of laboring for hire, shall be brought by such recruiter or garden sirdar before such medical officer (if any) as the Lieutenant-Governor of Bengal may from time to time appoint to examine intending laborers within such place or town. Such medical officer shall thereupon examine the native inhabitant, and

if he shall, in the judgment of such medical officer, be in a fit state of health, and able in point of physical condition to journey to, and work for hire in any of the said districts, the medical officer shall, on payment of a fee not exceeding two annas for each native inhabitant examined, give to the recruiter or garden sirdar a written certificate to that effect, specifying therein the name of such inhabitant.

And thereupon be brought before the Magistrate.

XXIII. Thereupon the recruiter or garden sirdar shall bring such native inhabitant before some Magistrate in the district or town within which the engagement was entered into, and shall, at the same time, produce to the Magistrate such medical certificate as mentioned in the last preceding section, and also his own license or certificate, as the case may be. The recruiter or garden sirdar shall state to such Magistrate the name of the contractor or employer, as the case may be, by whom such recruiter or garden sirdar is employed, and to whom such native inhabitant is to be forwarded; and such Magistrate shall thereupon examine such native inhabitant with reference to his proposed contract to labor; and if it appears that he understands the nature of his proposed contract as regards the locality, period, and nature of the service, the rate of wages, and the price at which rice is to be supplied, and that he is willing to fulfil the same, the Magistrate shall register, in a book to be kept for the purpose in such form as the Lieutenant-Governor of Bengal shall prescribe, the name of such native inhabitant and the depôt to which it is intended he shall proceed; but if the Magistrate shall be of opinion that such native inhabitant does not understand the nature of his proposed contract, or that he has been recruited by fraud or misrepresentation, or if no such medical certificate as aforesaid is produced by the recruiter or garden sirdar in respect of such native inhabitant, he shall refuse to register the name of such native inhabitant: Provided that if in any case the recruiter or garden sirdar shall satisfy the Magistrate that a medical certificate could not have been obtained without serious delay or inconvenience, the Magistrate may dispense with the production of such certificate.

Copy of register to be sent to the superintendent.

XXIV. An authentic copy of every registration made under the next preceding section, and all such certificates of a medical officer as aforesaid, shall be forthwith forwarded by the Magistrate to the superintendent, within the local limits of whose authority the depôt to which such native inhabitant is about to proceed is situated.

Provisions of two preceding sections to apply to natives engaged in Calcutta.

XXV. The provisions of the two preceding sections shall be applicable to all native inhabitants within the town of Calcutta, engaged by recruiters or by garden sirdars authorized by their certificates to engage more than twenty native inhabitants, except that they shall be brought for registration before the superintendent having authority in that town, and not before a Magistrate.

Registration of laborers coming from a district not within Bengal.

XXVI. Every native inhabitant of India who shall, by any recruiter or garden sirdar, be brought or induced to come from any province or district not under the control of the Lieutenant-Governor of Bengal, for the purpose of entering into a contract in a district under such control, shall be produced by a recruiter or garden sirdar for registry under section XIX, or for medical examination and registry under sections XXII and XXIII of this Act, as the case may be, at some place within the district subject to the control of the Lieutenant-Governor of Bengal, into which such native inhabitant shall first come after having been recruited: Provided that such native inhabitant, if engaged under the provisions of section XIX, may be produced by the garden sirdar for registry at Calcutta.

Penalty for forwarding laborers or allowing them to go without being duly registered, &c.

XXVII. Every contractor, recruiter, or garden sirdar, who shall forward, send, or accompany any native inhabitant of India from the district or town in which he may have been recruited, or into which, under the preceding section, he may have first come, before such inhabitant has been duly registered according to the provisions contained in section XIX or section XXIII, as the case may be, or who shall induce any such native inhabitant to leave

such district or town, for the purpose of proceeding to any of the said districts, without being so duly registered; or who shall forward, send, accompany, or induce any such native inhabitant to proceed to any depôt other than the depôt registered under section XXIII, shall be liable, in respect of every such native inhabitant so forwarded, sent, accompanied, or induced, to a fine not exceeding fifty rupees, and also to imprisonment, simple or rigorous, for a term not exceeding one month: Provided always that nothing in this section contained shall subject to any penalty any garden sirdar not authorized to engage more than twenty native inhabitants, by reason of his accompanying such native inhabitants to or towards Calcutta, for the purpose of there entering into a contract in pursuance of section XIX.

Laborers shall be accompanied to depôt by recruiter, or person approved by Magistrate.

XXVIII. All native inhabitants of India engaged by any contractor or recruiter to proceed to any of the said districts shall, after they have been registered as aforesaid, and while they are proceeding to a depôt, be accompanied throughout the journey by the contractor or recruiter himself, or by a competent person appointed by him, with the approval of the Magistrate, by whom such native inhabitants may have been registered.

Garden sirdar himself to accompany laborers engaged by him.

XXIX. Every garden sirdar, who engages native inhabitants, shall himself accompany them throughout from the place where they were recruited, to the place at which such native inhabitants are to labor.

Two or more garden sirdars not to proceed together, accompanied by more than twenty laborers.

XXX. It shall not be lawful for two or more garden sirdars, not authorized to engage more than twenty native inhabitants, to proceed together towards any of the said districts accompanied by laborers engaged by them or any of them, unless the full number of laborers engaged by both or all such garden sirdars shall not exceed twenty. Any garden sirdar guilty of any offence against the provisions of this or the preceding section shall be liable to fine. The provisions of this section shall

not apply during such time as the laborers are conveyed by steamer.

Contractor, &c., to provide suitable food and lodging, &c.

XXXI. Every contractor, recruiter, or garden sirdar, authorized to engage more than twenty native inhabitants, by or through whom any native inhabitant may be forwarded or accompanied to a depôt, shall, throughout the journey, provide such inhabitant with proper and sufficient food and lodging: and whenever any such native inhabitant shall not be so provided with lodging or food, the contractor, recruiter, or garden sirdar, by whom such native inhabitant may have been engaged, shall, for each default, and whether he may or may not have personally accompanied such native inhabitant, be liable to a fine not exceeding fifty rupees. The whole or any portion of such fine may be awarded to such native inhabitant as compensation.

Penalty on omission to supply lodging and food.

Garden sirdar to provide food and lodging.

XXXII. Any garden sirdar not authorized to engage more than twenty native inhabitants, who shall take such inhabitants to any of the said districts, shall provide such inhabitants with proper and sufficient food and lodging until arrival at the place of labor; and the provisions of the last preceding section, as regards fines and compensation, shall apply to every case of default by a garden sirdar under this section.

Contractor to give to the superintendent notice of arrival of laborers at depôt.

XXXIII. Every contractor shall, within twenty-four hours after the arrival at any depôt of any native inhabitant of India forwarded or brought to him for the purpose of proceeding to any of the said districts, give to the superintendent a notice in writing of such arrival, which notice shall be in such form, and shall contain such particulars, as the superintendent shall prescribe. Every such native inhabitant, in respect of whom no certificate shall have been forwarded in pursuance of section XXIV, or in respect of whom the superintendent may determine that an examination is desirable, shall, as soon as may be after his arrival, be examined by

Medical inspector to inspect laborers on arrival.

the medical inspector, who shall give the superintendent a certificate of the state of health of every such native inhabitant examined.

If unable to proceed to the district from bad health, laborer to be sent back to place where he was registered.

XXXIV. If the medical inspector shall certify that any native inhabitant so examined is in such a state of health that his journey to any of the said districts would be dangerous to himself or to others, or that he is unfit for labor in the said districts, the superintendent may order the contractor, or in case of native inhabitants engaged by a garden sirdar, such garden sirdar, to pay to such native inhabitant such sum as shall to the superintendent seem necessary to enable him to return to the place at which he was registered: Provided always that any such native inhabitant who, from his state of health, is, in the medical inspector's opinion, unfit to undertake the journey back to the place where he was registered, shall, until he is reported by the medical inspector fit to undertake such journey, be fed, clothed, and lodged at the expense of such contractor, or of such garden sirdar's employer. If such contractor or garden sirdar wilfully omits so to feed, clothe, and lodge the native inhabitant, he shall be liable to fine.

If laborer be illtreated, superintendent may remove him from depôt.

XXXV. If, upon the arrival of any native inhabitant at a depôt, it shall appear to the superintendent that such native inhabitant has suffered any illtreatment on the journey, the superintendent may cause him to be removed from the depôt, and may order the contractor or garden sirdar, for or by whom such native inhabitant shall have been taken to such depôt, to pay him such sum of money as, to the superintendent shall seem reasonable, by way of compensation, or such sum as to the superintendent shall seem necessary in order to enable such native inhabitant to return to the place where he was registered. In the latter case the native inhabitant shall not be bound to enter into a contract.

Provision in case of illtreatment of laborer by garden sirdar.

XXXVI. If, upon the arrival at Calcutta of any native inhabitant engaged by any garden sirdar not authorized to engage more than twenty native inhabitants, it shall appear to the

superintendent that such native inhabitant has suffered any ill-treatment on the journey, the superintendent may order the garden sirdar, by whom such native inhabitant shall have been brought to Calcutta, to pay him such sum of money as to the superintendent shall seem reasonable by way of compensation, or such sum as to the superintendent shall seem necessary in order to enable such native inhabitant to return to the place where he was engaged.

Contract to be explained by superintendent and executed in duplicate, and abstract to be entered in a book by superintendent.

XXXVII. Every contract entered into in pursuance of section XVIII, and not being within the provisions of section XIX, shall, in the presence of the superintendent, be signed in duplicate both by such native inhabitant and by the person with whom he intends to contract, or his agent. Before such native inhabitant signs the contract, the superintendent shall personally explain it to him, and shall attest such contract and certify at the foot thereof that he has personally explained the same. An abstract of every such contract shall be entered by the superintendent in a register to be kept by him for the purpose ; and after such abstract has been so entered, one of the duplicates so duly signed and attested as hereinbefore provided, shall be given to the laborer, and the other to the person with whom he has contracted, or his agent.

Penalty on laborer refusing to execute contract.

XXXVIII. If any native inhabitant of India who may, under the provisions hereinbefore contained, have been received into any depôt, shall, without reasonable cause, refuse to execute such contract as shall be tendered to him for execution in conformity with the provisions of the last preceding section, such native inhabitant shall be punished with a fine equal in amount to the entire cost incurred by or on behalf of the contractor or the garden sirdar's employer in and about bringing such native inhabitant to such depôt; and, in default of payment of such fine, with imprisonment, with or without hard labor, which may extend to two months, and such native inhabitant shall forthwith be discharged from such depôt. A certificate signed by the superintendent that reasonable cause for refusing to execute the contract has not been shown

shall be admissible as *primâ facie* evidence in any proceeding under this section. Every fine levied under the provisions of this section shall be paid to the contractor or employer by whom or on whose behalf the person from whom such fine shall have been levied was originally registered.

Penalty on contractor not providing an employment for laborer.

XXXIX. If within thirty days after the arrival of any native inhabitant of India at a depôt, the contractor or garden sirdar by whom or on whose behalf such native inhabitant shall have been registered, shall not tender to him for execution such contract as under the provisions of the preceding sections he would be bound to execute, the superintendent may order the contractor or garden sirdar to pay to such native inhabitant such sum of money as to the superintendent shall seem necessary to enable such native inhabitant to return to the place where he was registered, and in such case such native inhabitant shall not be bound to execute any contract.

Power to enforce payment of monies ordered by superintendent to be paid.

XL. If any contractor or garden sirdar who may be ordered, under the provisions of sections XXXIV, XXXV, XXXVI, or XXXIX, to pay any sum of money, shall for twenty-four hours omit to comply with such order, it shall be lawful for the superintendent to advance the amount so ordered to be paid to the person named in such order, and to recover from such contractor or garden sirdar or his employer the sum so advanced with interest at the rate of twelve per cent. per annum from the date of such advance, and no further proof shall be required by any court in any suit for the recovery of money so advanced, than that the superintendent made such order as aforesaid and advanced the money as aforesaid.

Laborers whose contracts are duly executed and entered, may be despatched with consent of superintendent.

XLI. Any laborers whose contracts shall have been executed and entered as hereinbefore provided, may be despatched from time to time to any of the said districts by the contractors in whose depôts they may be, or by the persons whom they may have agreed to serve respectively, but subject always to the provisions of this Act. No laborer shall be so despatched unless

the permission of the superintendent shall have been first obtained, and the laborer shall have received a pass as hereinafter mentioned.

Steamer or boat to be licensed to carry laborers.

XLII. It shall not be lawful for the master of any steamer, or the manjee of any boat, without a license granted by the superintendent within the local limits of whose authority any laborer may embark, to convey more than twenty laborers at any one time to or towards any of the said districts. A fee not exceeding four annas per laborer (the amount of which fee shall from time to time be fixed by the Government of Bengal) shall be paid for every such license, and it shall be in the discretion of the superintendent to whom application is made to grant or withhold any such license. Every such license shall apply only to one voyage or trip to the said districts, or any one or more of those districts, and shall specify the number of laborers which the steamer or boat is licensed to carry, and the number of persons (including the crew) other than laborers whom such steamer or boat is licensed to carry.

Penalty for conveying laborers in a steamer or boat without a license.

XLIII. The master of any steamer, or the manjee of any boat, in which at one time more than twenty laborers shall be conveyed without a license having been obtained as aforesaid, shall be liable to a fine for every laborer so illegally conveyed.

Penalty for fraudulent acts, whereby a steamer or boat becomes unfit for the accommodation of the laborers mentioned in a license.

XLIV. If the master of any steamer, or the manjee of any boat, shall, after having obtained a license as aforesaid, fraudulently do or suffer to be done any act or thing whereby the state of the steamer or boat may be altered, so that such steamer or boat may be unfit for the accommodation of the number of laborers mentioned in such license, such master or manjee shall be liable to fine.

Penalty for taking on board greater number of passengers than specified in license.

XLV. The master of any steamer, or the manjee of any boat licensed to carry laborers, who shall receive on board his steamer or boat a greater number of laborers, or of other persons, than is specified in his license, shall be liable to a

fine for every laborer and other person so received in excess of the licensed number. In computing under this Act the number of laborers or other persons on board of any steamer or boat, two children under the age of ten years shall be reckoned as one person only.

Two children under ten to count as one person.

XLVI. No master of any steamer, nor manjee of any boat, whether licensed or not, shall take on board any laborer unless such laborer, or some person accompanying him, shall show a pass signed by some superintendent, or, in the case of native inhabitants engaged by a garden sirdar, signed by some Magistrate or other officer, or superintendent, acting under the provisions of section XIX, stating his name and age, and the name of his father, and certifying the place of his destination, and the name of the person with whom he has contracted to labor. A master or manjee shall be liable to a fine not exceeding ten rupees for every laborer taken on board without a pass.

No laborer to be taken on board unless he has a pass signed by the superintendent.

XLVII. If the master of any steamer, or the manjee of any boat, shall, save as hereinafter is provided, cause or permit any laborer finally to leave such steamer or boat at any place other than that named as the destination of such laborer in the pass signed, as in the next preceding section is provided, such master or manjee shall be liable to fine for each such offence : Provided always that this section shall not be deemed to prevent the master of any steamer, or the manjee of any boat, from permitting laborers to disembark at any place or places on the voyage, so long as such disembarkation is not intended, or known to be likely to be final; nor to prevent the final disembarkation of any laborers in case of accident or other unavoidable necessity, if such accident or necessity be forthwith reported to the superintendent by whom the license of such steamer or boat was granted, and to the nearest Magistrate in the district within which such accident may occur or necessity arise.

No laborer to be allowed finally to leave steamer or boat at any place other than that mentioned in his pass.

Proviso.

XLVIII. Before any steamer or boat, licensed as aforesaid, shall proceed upon any voyage for the said districts, the master or manjee thereof shall deliver to the superintendent a list in duplicate, in a form to be prescribed by the Lieutenant-Governor of Bengal, specifying the names, ages, previous occupations, and destinations of all the laborers on board such steamer or boat, and the names of the persons with whom they have respectively contracted to labor. The superintendent shall keep one of the said lists, and shall sign the other (if it be in his opinion correct) and deliver it back to the master or manjee. If the master of any steamer, or the manjee of any boat, shall, after having commenced his voyage, or after having delivered such list to the superintendent, knowingly take on board any laborer whose name shall not have been entered in the list aforesaid, he shall be liable to a fine for every laborer so illegally taken on board.

A list of the laborers on board to be delivered to superintendent.

Penalty for afterwards taking on board laborers not entered in list.

XLIX. The master of any steamer, or the manjee of any boat, licensed as aforesaid, having laborers on board, shall, immediately on the arrival of such steamer or boat at any station between the places of embarkation and disembarkation of such laborers, at which there may be a Magistrate, give immediate notice of such arrival to the Magistrate, and it shall be lawful for the Magistrate, or any officer specially deputed by him on that behalf, at any time while such steamer or boat is within the limits of his jurisdiction, and whether such notice as aforesaid shall have been given or not, to go on board such steamer or boat and to inspect the same, and the master and officers of the steamer, or the manjee of the boat, shall be bound to afford such Magistrate or other officer all reasonable facility for such inspection, and to give him all such information respecting the laborers or other persons on board thereof as may be reasonably required, and in default of compliance with the provisions aforesaid, such master or manjee may be punished by fine.

Notice of arrival of laborers to be given.

Power to detain steamers, boats, and laborers.

L. It shall be lawful for such Magistrate or other officer as aforesaid, if he shall see reasonable ground for so doing, to detain the steamer or boat until he shall have caused the laborers on board thereof to be inspected by the civil medical officer of the district, or, in case of his absence or inability to attend, by some other qualified medical officer, and such medical officer shall inspect the laborers on board such steamer or boat, and shall prepare, sign, and submit to the Magistrate or other officer a report respecting the general condition and health of the laborers on board, and shall cause to be detained at such station for medical treatment any laborer who may appear to him to be affected with any infectious or contagious disease, and any laborer who may have been, in pursuance of the provisions hereinafter in that behalf contained, taken beyond his place of destination, in consequence of his being in such a state of health as to be unfit to proceed to the place at which he has contracted to labor.

Infractions of Act to be reported to superintendent.

LI. In any case in which, on making such inspection as is in the last preceding section provided, the Magistrate shall find that any of the provisions of this Act have not been complied with, he shall report the same to the superintendent by whom the license to carry the laborers was granted to such steamer or boat; and if the circumstances of the case are such as in the Magistrate's opinion make it necessary so to do, he may detain the said steamer or boat until the provisions of this Act have been complied with, so far as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the laborers.

Powers of Magistrate where disease exists amongst laborers.

LII. If disease shall exist among laborers, or intending laborers, while passing through any district, whether by land or by water, on their journey either to a depôt or place of embarkation, or to the place where they are to labor, any Magistrate having jurisdiction in such district may require the civil medical officer of the station, or, in his absence, some other qualified medical officer, to report on the health of such laborers or intending

laborers, and, if in the opinion of such medical officer it may be advisable, may detain such laborers or intending laborers, or any of them, until such time as they shall be able to proceed with safety. In any case in which laborers or intending laborers are detained under the provisions of this section or of section L or LIII, by a Magistrate, he shall cause all necessary arrangements to be made for their accommodation, support, and medical treatment; and all expenses incurred by him in respect of the laborers so detained, prior to the final disembarkation of the laborers, shall be recoverable, with interest at the rate of six per cent. per annum, from the contractor by, through, or for whom the laborers shall have been engaged or forwarded; or, in the case of laborers or intending laborers engaged by a garden sirdar, from the employer from whom such garden sirdar received his certificate, as money paid to the use of such contractor or employer. If any such expenses shall be incurred in respect of laborers after they shall have finally disembarked, such expenses shall be recoverable, with interest as aforesaid, from the employer under whom such laborers have contracted to serve.

Disembarkation of laborers at a civil station.

LIII. Whenever any steamer or boat licensed as aforesaid shall arrive at any civil station, and there shall be on board of such steamer or boat laborers intended to disembark at such station or at some intermediate place at which such steamer or boat would arrive before arriving at the next civil station, the master of such steamer, or the manjee of such boat, shall, previously to the disembarkation of any of the laborers, give notice of such arrival to the Magistrate of such station or such officer as shall be appointed by such Magistrate in that behalf, and shall exhibit to him the list mentioned in section XLVIII, so far as it relates to such laborers, and the Magistrate or other officer aforesaid shall cause such laborers to be inspected by the civil medical officer of the station, or in his absence by some other qualified medical officer; and it shall be the duty of such medical officer to inspect carefully all such laborers, and after making such inspection, he shall prepare and sign a report in which he shall certify as to the state of health and general condition of every laborer so inspected, and shall cause

to be detained at such station for medical treatment any laborer who may be in such a state of health as in his opinion to be unfit to proceed to the place at which he has contracted to labor.

Provision to be made for disembarked laborers.

LIV. The Magistrate or other officer aforesaid shall forthwith, upon receipt of the notice in section LIII mentioned, give notice of the arrival of the laborers to be inspected under the provisions of the same section to the persons with whom they shall be under contract to labor, or to the agents of such persons, who shall forthwith take charge of their laborers respectively. It shall be the duty of the Magistrate or other officer aforesaid to ascertain whether reasonable provision has been made for the support and lodging of laborers whose place of disembarkation may be at such station from the time of their disembarkation till they reach their final destination; and if the persons with whom they may have contracted shall fail to make such reasonable provision, or if such persons or their respective agents shall not be present at the place of disembarkation, the Magistrate or other officer aforesaid may order such arrangements to be made, and incur such expenses, as under the circumstances may seem to him necessary; and the amount of expenses so incurred by him in the disembarkation, or in respect of the food, lodging, medicines, hospital attendance, or clothing of the laborers, shall, with interest at the rate of twelve per cent. per annum, be recoverable by the Magistrate or other officer aforesaid from the respective employers with whom such laborers may have contracted to serve.

Disembarkation elsewhere than at a civil station. Power to send laborers forward.

LV. If the place of disembarkation be not a civil station, the laborers who are to disembark at such place, and who shall have been previously inspected according to the provisions of section LIII, shall in case the persons with whom they have contracted to labor, or the agent of such persons, be present, be disembarked and given in charge to such persons or agents. Provided always that in case the medical officer in charge of such laborers, if there be any such medical officer, and if there be not, then the master of the steamer in which such laborers have been conveyed, shall be of opinion that any of such laborers are in such

a state of health as to be unfit to proceed to the places where they have respectively contracted to labor, or that reasonable provision for the support and lodging of such laborers from the time of their disembarkation till they reach their final destination has not been made; or in case the persons with whom such laborers have contracted to labor, or the agents of such persons, shall not be present, then and in every such case the laborers so unfit to proceed, or for whose support reasonable provision has not been made, or whose employers may be not present personally or by their agents, shall be further conveyed in the steamer to the next civil station and shall be there disembarked, and the place at which they shall be so disembarked shall, for the purposes of this Act, be deemed to be their place of disembarkation.

Power to family of detained laborer to remain with him.

LVI. Whenever a laborer may remain behind or be detained under the provisions of sections XXXIV, L, LII, or LIII, or may be further conveyed under the provisions of section LV, it shall be optional with the wife or husband of such laborer, as the case may be, to remain with the laborer so remaining behind or detained, or to be taken forward along with the laborer so further conveyed, whether such wife or husband have contracted to work for hire in any of the said districts or not. If there are any children, they shall also be allowed to remain.

Medical officer to submit reports to Magistrate.

LVII. Every medical officer who shall have made any report under the provisions of sections L, LII, or LIII, shall forthwith submit every such report to the Magistrate or other officer, and shall also report to the said Magistrate or other officer such particulars respecting every laborer who may have been detained, as under the provisions of section XLVIII are required to be specified in the list in the said section mentioned.

Magistrate to send detailed report to superintendent.

LVIII. The Magistrate or other officer aforesaid shall, upon the arrival or detention of any laborers, belonging to a party of more than twenty, despatch without delay, to the superintendent by whose permission they were forwarded, a detailed report of the number of laborers who have arrived or been detained

together with a copy of the report (if any) of the civil surgeon or other medical officer, and any observations which such civil surgeon or other medical officer, or such Magistrate or other officer aforesaid, may think fit to make as to the state of health and general condition of the laborers.

Power to make rules regarding diet, clothing, medical attendance, &c., of laborers in transit.

LIX. It shall be lawful for the Lieutenant-Governor to make rules, prescribing the diet, clothing, medical attendance, and management of laborers in transit by steamers or boats licensed as aforesaid, for regulating the control and issue of stores, and for the control of all officers, cooks, and attendants on board such steamer or boat under the provisions of sections LXII. The said Lieutenant-Governor may from time to time alter, vary, and revoke such rules; and when and so soon as such rules shall have been published in the *Calcutta Gazette*, all diet, clothing, medical attendance, and management provided for such laborers which may not be in accordance with the terms of the rules which for the time being may be in force shall be deemed not to be proper nor sufficient.

Penalty for wilful neglect to enforce such rules.

LX. Every master of a steamer, or medical officer in charge of laborers on board of any boat carrying laborers, who shall wilfully and knowingly neglect or refuse to enforce on board of such steamer or boat such rules as may from time to time be prescribed by the Lieutenant-Governor as aforesaid, shall be liable to fine.

Jurisdiction over offences committed on board steamer or boat.

LXI. Any offence against any of the provisions of this Act, or any rule to be passed as aforesaid, committed on board of any steamer or boat, may be tried by any Magistrate exercising jurisdiction in any place at which laborers may have embarked on board such steamer or boat, or may have disembarked from such steamer or boat, or in any place in which such steamer or boat may be detained under the provisions of this Act.

Sufficient quantity of provisions to be carried on every steamer or boat.

LXII. There shall be laden, under the supervision of the superintendent, on board of every steamer or boat licensed as aforesaid and carrying laborers to any of the said districts at the

time of the embarkation of such laborers, proper and sufficient provisions for the consumption of the said laborers, to the amount, or in the proportion, which shall be prescribed as aforesaid by the Lieutenant-Governor. And any master or manjee who shall commence the voyage without having on board such provisions as aforesaid, or without having on board such medical and other officers, cooks, and other attendants, as the superintendent shall order, shall be liable to a fine not exceeding five hundred rupees, and in default of payment to imprisonment for a term not exceeding three months. Provided always that it shall not be lawful for the superintendent to order that a medical officer shall proceed with any number of laborers less than fifty who may go together to the said districts or any of them.

And medical and other officers to be carried.

LXIII. The provisions with regard to engaged native inhabitants of India and registered laborers contained in sections XXXI, XXXII, XXXIV, XXXV, XXXVI, L, LI, LII, LIV, and LXII, of this Act, shall be applicable to such women, children, and aged relatives of such native inhabitants and laborers as may, with the consent of a contractor, recruiter, or garden sirdar, and with the written permission of the registering Magistrate or superintendent, accompany them without having entered into an engagement.

Provisions of sections 31, 32, 34, 35, 36, 50, 51, 52, 54, and 62 to apply to children, &c., accompanying laborers.

LXIV. It shall be lawful for the Lieutenant-Governor of Bengal, in case he shall be of opinion that the emigration of native inhabitants of India from any district, or to any particular part of any of the said districts, for the purpose of becoming laborers, is likely to be attended with danger to the health of any native inhabitants so emigrating, to prohibit, by an order under his hand, the emigration of such native inhabitants from such district or to such particular part of the said districts, and from time to time to revoke or vary any such order; and every such order or variation or revocation thereof shall be published in the *Calcutta Gazette*.

Power to prevent emigration of laborers.

Penalty on engaging emigrant contrary to such order.

LXV. Any person who shall knowingly engage any native inhabitant so to emigrate while such emigration shall be so prohibited, shall be liable to a fine not exceeding fifty rupees for every laborer who may have been so engaged.

Power to fix daily tasks.

LXVI. It shall be lawful for every employer to fix the daily tasks to be executed by the laborers employed by such employer, and to frame a schedule of such daily tasks, and to publish the same by posting a copy thereof in the Bengalee language upon the door of each place of payment of the laborers employed by such employer, and by sending a copy thereof in the English language to the inspector.

Inspector may submit schedule to a committee.

LXVII. If at any time the inspector shall consider such schedule of daily tasks or any part thereof to be unreasonable, he shall refer the consideration of such schedule to a committee consisting of the inspector, of some employer to be nominated by him, and of some person to be nominated by the employer whose schedule is to be considered, or on his default by the inspector.

Committee to revise schedule.

LXVIII. In case the said committee or the majority in number thereof shall be of opinion that the daily tasks in such schedule contained, or any of them, are unreasonable, they shall modify and reduce such daily tasks in such manner as they shall deem reasonable, and such schedule so modified shall be published in manner aforesaid, and every schedule published as aforesaid shall have effect as between the employer and laborers in substitution for any former schedule.

Maximum amount of labor to be required.

LXIX. Save as hereinafter is provided, no laborer shall be bound to serve under his contract for a longer period than three years from the time at which he shall have arrived at the place where he is to be employed, nor to work on more than six days in one week, nor for

more than six hours consecutively, nor for more than nine hours on any one day.

Copy of abstract to be sent to Magistrate of district where service is to be performed. Abstracts and copies to be evidence.

LXX. The superintendent shall send by post a copy, authenticated under his hand, of every abstract entered by him, as in section XXXVII provided, to the Magistrate of the district in which the service under such contract is agreed to be performed. Every such copy shall be despatched by the superintendent within seven days after the entry of the abstract. Every abstract and every such copy shall, without further proof thereof, be receivable as primary evidence in every court, whether civil or criminal, as fully as the original contract might or could be.

Contracts to be a charge on and to pass with the land.

LXXI. Every contract made with any laborer in pursuance of the said Acts III of 1863 and VI of 1865, passed by the Lieutenant-Governor of Bengal in Council, or of this Act, and all arrears of wages under any such contract, shall be a charge upon the lands upon which such laborer shall have been engaged to work. All such arrears of wages shall also be recoverable on a summary application before a Magistrate by a warrant of distress under the hand of such Magistrate under which a sufficient portion of the moveable property of the owner of the lands aforesaid may be distrained and sold to pay the amount of the arrears decreed, and the costs of application and of executing the distress. Any summons issued by the Magistrate on such summary application as aforesaid may be directed to the employer for the time being in charge of the lands. And the owner of such lands for the time being shall have all rights and remedies against such laborer as if such owner for the time being had been originally the party executing such contract as employer. Provided that no greater arrears of wages than four months shall be recovered under this section, and no person, after he shall have ceased to be owner of such lands, nor his property nor effects, shall be in any wise liable or responsible for any breach of such contract which may have occurred after he shall have ceased to be such owner.

Sufficient house accommodation, &c., to be provided.

LXXII. Whenever any laborers shall be employed in any of the said districts, there shall be provided for them sufficient and proper house accommodation, water-supply, sanitary arrangements, and rice.

Power to make rules defining house accommodation, &c.

LXXIII It shall be lawful for the Lieutenant-Governor to make rules defining the nature of the house accommodation, water-supply, and sanitary arrangements and rice to be provided for such laborers, and from time to time to alter, vary, and revoke such rules; and when and so soon as such rules shall have been published in the *Calcutta Gazette*, all house accommodation, water-supply, sanitary arrangements, and supply of rice which may not be in accordance with the terms of the rules which for the time being may be in force, shall be deemed not to be proper nor sufficient.

Powers of inspector as to house accommodation, &c.

LXXIV. It shall be lawful for any inspector or assistant inspector, who is himself a Magistrate, to institute within his jurisdiction, on the lands in charge of any employer, or at some place within his jurisdiction not more than ten miles distant from such lands, an enquiry whether such employer has provided for his laborers sufficient and proper house accommodation, water-supply, sanitary arrangements, or rice. On the complaint of any inspector or assistant inspector, a similar enquiry may be made by any Magistrate. Any such enquiry, whether conducted by an inspector or assistant inspector, or before a Magistrate on the complaint of an inspector or assistant inspector, shall be dealt with and conducted as a case triable by a Magistrate under the Criminal Procedure Code.

Punishment for gross neglect as to house accommodation, &c., and for wilfully omitting to comply with the order of the Magistrate in such respect.

LXXV. If the employer is convicted of gross neglect in not having provided sufficient and proper house accommodation, water-supply, sanitary arrangements, or rice, such employer shall be liable to a fine not exceeding five hundred rupees. In any case where proper or sufficient house

accommodation, water-supply, sanitary arrangements, or rice be found not to have been provided, the Magistrate may order the employer to provide such proper and sufficient house accommodation, water-supply, sanitary arrangements, and rice. If the employer wilfully omits to comply with such order, he shall be liable to a fine not exceeding one hundred rupees a day for every day that such omission continues. In default of payment by the employer of the last mentioned fine, the person on whose account such employer has been acting shall be liable to pay the fine

Hospital, medicines, and medical officer to be provided for laborers.

LXXVI. There shall be provided for all laborers such sufficient hospital accommodation and such medicines of such quality and descriptions, and according to such scale, as shall from time to time be fixed by the Lieutenant-Governor of Bengal; and if three hundred or more laborers shall be employed by any employer, it shall be the duty of such employer to place in medical charge of such laborers a medical officer holding a medical diploma from some Indian or European collegiate institution authorized to grant diplomas, or an officer for the time being licensed by the local Government to act in such medical charge of laborers.

Penalty for breach of last section.

LXXVII. Wherever such hospital accommodation, or medical charge, as required by the last preceding sections, or medicines of such quality and descriptions and according to such scale as aforesaid, shall not have been provided, the employer or other person through whose wilful default the same shall not have been provided shall be liable to a fine for every week during which any such default continues.

Appointment of inspectors and assistant inspectors, and powers of inspectors.

LXXVIII. It shall be lawful for the Lieutenant-Governor of Bengal to appoint, in any district in which this Act may be in force, so many inspectors and assistant inspectors of laborers as he may think proper, and to define, by notification in the *Calcutta Gazette*, the local limits within which each such inspector and assistant inspector shall exercise the powers and authorities conferred, and perform the duties imposed on him by this Act

Such inspectors and assistant inspectors may be, by the said Lieutenant-Governor, vested with all or any of the powers of a Magistrate.

Establishment of inspectors and assistant inspectors and powers of assistant inspectors.

LXXIX. It shall be lawful for the Lieutenant-Governor of Bengal to assign to such inspectors and assistant inspectors as may be requisite such establishment as may be thought fit; and such assistant inspectors shall perform all the duties and exercise all the powers of an inspector, which they shall be authorized in writing by an inspector to perform or exercise.

Return of laborers to be sent in half-yearly by employer, &c., to inspector.

LXXX. Every employer shall, on or before the last day of January and the last day of July in each and every year, make out in writing, and deliver to the inspector of laborers of the district, a return of the number of laborers employed by such employer on the last day of the preceding month, and a return of the sickness and mortality among the laborers during the preceding six months; and such returns respectively shall be in such form as may from time to time be prescribed by the Lieutenant-Governor of Bengal by an order to be published in the *Calcutta Gazette*.

Penalty for refusing or omitting to send in return, or sending in incorrect return.

LXXXI. If any employer shall refuse, or wilfully omit, duly to send in any such return as mentioned in section LXXX of this Act, or shall knowingly send in an incorrect return, such employer shall, on conviction thereof before a Magistrate, be liable to fine; and a certificate under the hand of the inspector to whom such return ought to have been sent, stating that such return has not been sent or is incorrect as aforesaid, shall be received as *primâ facie* evidence of the truth of the facts stated in such certificate.

Yearly rate payable to provide for expenses of Act.

LXXXII. It shall be lawful for the Lieutenant-Governor of Bengal from time to time, by order published as aforesaid, to fix a yearly sum, not exceeding one rupee per laborer, for the purpose of defraying the expense of carrying out the purposes of this Act,

and the sum or rate so fixed shall be paid half-yearly by each employer on the last day of July and the last day of January in each year, according to the return next before such payment shall be due.

Employer failing to send in the rate in due time, how to be dealt with.

LXXXIII. If any employer shall fail to comply with the provisions of the last preceding section, it shall be the duty of the Collector to notify such default to him; and if, within one month from the receipt of such notification, or such longer period as it may, under special circumstances, appear to the Collector reasonable, such employer shall not so comply, the Collector shall, by distress and sale of any moveable property which may be found in the possession or under the charge of such employer, levy the sums so payable.

Power to sue for rate.

LXXXIV. If there shall be no such moveable property or insufficient moveable property so found, the amount shall be recoverable by a civil regular suit, from the person for whose benefit the laborers in respect of whom the same may be payable shall have been employed. In every such suit the Government shall be named as plaintiff, and the cause of action shall be taken to have arisen within the limits of the jurisdiction of any court having jurisdiction at any place where any such laborers may have been employed by such employer.

Books to be kept, and periodical visits and reports made by inspector.

LXXXV. Every inspector of laborers shall, once within each of such periods as may be fixed for such purpose by the Lieutenant-Governor of Bengal, visit all lands within the limits of his authority, on which there shall be employed any laborers, and inspect every hospital, tent, camp, or building in any way used by any such laborer, and investigate the condition of the laborers employed; and for such purpose the inspector may require that any laborer shall be produced before him with his contract, and may make such enquiries as may to him seem proper. Every such inspector shall keep books, in which, from time to time, shall be entered the number of laborers then under contract

with each employer, the number who shall then be sick or missing, or who shall have complained of ill-treatment, the particulars of such complaints, and such other particulars regarding the laborers as the Lieutenant-Governor of Bengal shall from time to time direct. Each inspector shall annually make a written report to the Lieutenant-Governor of Bengal, through the Commissioner of the Division, of the aforesaid particulars; and every such report, as regards the laborers under any particular employer, shall, at all reasonable times, be open to the inspection of such employer or any person by him appointed in writing in that behalf, and the person so inspecting shall be entitled to take a copy of the report so far as it relates to such laborers.

Magistrate, or person authorized by him, may inspect any estate at any time.

LXXXVI. It shall be lawful for any Magistrate exercising jurisdiction in the district, or any person authorized by him in writing in that behalf, at any time to enter and inspect any hospital, tent, or building, wholly or partially used by or for laborers, and to require that any laborer shall be brought before him, and to make any enquiries which he may think proper touching the condition or treatment of any laborer.

Penalty, on person obstructing inspection, &c.

LXXXVII. If any employer, or other person acting for or under such employer, shall wilfully obstruct or impede any entry, inspection, or enquiry made under either of the two preceding sections, such employer or other person as aforesaid shall be liable to a fine not exceeding five hundred rupees for each such offence.

Inspector may suspend contract of any laborer temporarily unfitted for labor.

LXXXVIII. It shall be lawful for the inspector of laborers, within the local limits of whose authority any laborer may be employed, to suspend, for such period as he shall consider advisable, the contract of such laborer, or any particular term thereof, if such laborer shall be, in the judgment of such inspector, temporarily unfitted for the performance thereof by reason of sickness, pregnancy, or other sufficient cause. Provided that every such suspension shall be endorsed by the inspector on the contract. Provided also, that every such laborer shall, during such incapacity,

receive such subsistence money from his employer as shall be considered sufficient by the inspector, and that the time during which the suspension continues shall not be reckoned as part of the term for which the laborer is bound to serve.

Penalty for compelling laborer to perform work for which he is unfit.

LXXXIX. If it shall be found that any laborer has been compelled to perform any species of labor for which he was at the time unfit, the employer by whom he was so employed shall be liable to fine.

Power to discharge laborers permanently unfitted for labor.

XC. If, in the opinion of the inspector of laborers, any laborer shall be permanently unfitted for the performance of his contract or any material part thereof, the inspector shall certify to that effect in writing, and deliver such certificate to the employer of such laborer or some one on his behalf, and from the date of such certificate the contract of such laborer shall wholly cease and determine. The inspector shall make a return of all such cases of determination of contract in his report under section LXXXV of this Act. Every laborer, whose contract shall have been determined as aforesaid, shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the inspector may award, and such sum shall be recoverable before a Magistrate in the manner hereinafter provided for the recovery of wages.

Laborer who has completed his contract to be permitted to have such completion registered.

XCI. Every laborer who shall have completed the term of his contract shall be forthwith permitted by his employer to appear before the inspector to have the completion of his contract registered. If such employer shall detain such laborer after the completion of his contract, or shall fail to give notice of such completion to the inspector within one month after the date of such completion, such employer shall be liable to fine.

Power to redeem contract.

XCII. If any laborer shall be able and desirous to redeem the unexpired term of his contract of service by payment of a sum equivalent to the value thereof, such laborer may demand to be taken or allowed

to go before the inspector of laborers within the local limits of whose authority he may be employed, and on his depositing such sum in the hands of such inspector, such inspector shall give notice to the employer that such laborer requires him within one week to show cause why the contract of such laborer should not be released; and in case no sufficient cause shall be shown, such inspector shall require the production of the contract of such laborer and endorse thereon a certificate of release by purchase, and shall hold the sum in deposit on account of the employer of such laborer. If any employer, or other person authorized to act for the employer, shall neglect to comply with such demand as aforesaid, such employer, or other person as aforesaid, shall be liable to fine. The value of the unexpired term of contract shall be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year; of three rupees for every such month of the second year; and of five rupees for every such month of the third year, of the original term of the laborer's engagement.

A certificate to be given to laborer whose contract has determined or been completed, or who has purchased release therefrom.

XCIII. Every laborer whose contract shall have been completed, determined, released by purchase as aforesaid, or rescinded by the mutual assent of the parties thereto, shall be entitled to receive forthwith from the inspector a certificate of release in such form as may from time to time be prescribed by the Lieutenant-Governor of Bengal by an order to be published in the *Calcutta Gazette*.

If laborer desire to complain, employer to give notice to inspector.

XCIV. If any laborer shall state to his employer, or to any person acting for such employer, that he desires to make a complaint to the inspector of laborers of personal ill-usage or breach of any provision of this Act on the part of such employer or other person, the person to whom such statement shall have been made shall, within forty-eight hours, send notice thereof in writing to the inspector, and in default of so doing, such person shall be liable to fine.

Inspector how to proceed on receipt of notice of complaint.

XCV. Whenever any inspector of laborers shall receive such notice in writing as aforesaid, or whenever any complaint of personal ill-usage or breach of any provision of this Act as aforesaid, shall be made to him by any laborer against his employer or any person acting for such employer, or whenever the inspector shall have other reasonable grounds for believing that any such personal ill-usage or breach of any provision of this Act as aforesaid has been suffered by a laborer, such inspector shall forthwith, if the place in which such offence has been committed is not situate within the limits of his own authority, give notice thereof in writing to the inspector within the limits of whose authority such place is situated; and if such place be situated within the limits of his own authority, then such inspector shall, so soon as conveniently may be, proceed to some place not more than ten miles in a direct line from the principal place of business of such employer, and make full enquiry into the matter complained of.

Inspector may summon the complainant and his witnesses. Penalty for obstructing service of, or obedience to, summons.

XCVI. For the purposes of such enquiry, it shall be lawful for any inspector, if he think fit, to summon such laborer as aforesaid, as well as any witnesses; and if any employer shall in any way obstruct the service of, or obedience to, such summons, or if any witness summoned shall neglect to attend, such employer or witness shall be liable to fine.

Inspector how to proceed if the complaint be untrue or frivolous.

XCVII. If, upon such enquiry made on the complaint of a laborer, the inspector shall be of opinion that the complaint is untrue or frivolous, he shall enter in his book the particulars of such complaint, and a short statement of the grounds of his opinion respecting it, and shall dismiss the complaint, and in such cases shall endorse on the employer's copy of the contract of such complainant the number of days during which such complainant has been absent from work in consequence of such enquiry, and such number of days shall be added to the period for which such complainant had contracted to serve;

and every such endorsement shall be conclusive evidence that such laborer has absented himself from his labor without sufficient cause during the number of days which shall be so endorsed.

Inspector how to proceed if the complaint be well founded.

XCVIII. If, upon enquiry as aforesaid, the inspector shall be of opinion that the complaint is well founded, he shall, if a Magistrate, dispose of the case according to due course of law. If the inspector shall not be a Magistrate, he shall, without delay, send the complainant and his witnesses to the nearest Magistrate, and such Magistrate shall thereupon dispose of the case in due course of law.

Recovery of wages. Compensation to be given if wages for more than two months are due.

XCIX. If, upon the complaint of any laborer, it shall be proved to the satisfaction of the Magistrate that the wages of such laborer are in arrear to an amount exceeding the total of such laborer's wages for two months, it shall be lawful for such Magistrate to award to such laborer the amount which shall appear to be then due to him; and also, by way of compensation, such further sum, not exceeding that amount, as shall appear to the Magistrate to be just; and, in case of default, the Collector shall, upon the requisition of the Magistrate, levy the entire sum in the manner prescribed in section LXXXIII.

Contract to be cancelled if employer be convicted by the Court of Session, or be twice convicted by a Magistrate, of an offence against the laborer, or if wages be not paid for more than four months, or if laborer has been ill-used.

C. If any employer, or any person placed in authority over any laborer by such employer, shall be convicted of any offence causing injury to the person or property of such laborer triable under the Code of Criminal Procedure by the Court of Sessions; or if any such employer, or other person as aforesaid shall be twice convicted of any such offence against such laborer triable, under the said Code, by a Magistrate; or if it shall be proved before a Magistrate that the wages of such laborer are in arrear to an amount exceeding the total of such laborer's wages for four months; or if a Magistrate shall, on the report of the inspector and after due enquiry, upon oath, in the presence of the parties, be satisfied that any laborer has been compelled to perform any labor while he was unfit for it,

or has been subjected to ill-usage by such employer or any other person placed in authority over the laborer by such employer, it shall be lawful for the Magistrate, if he think fit, on the application of the laborer, in each of such cases, to cancel the contract of such laborer, and to award to him compensation not exceeding thirty rupees, and every such cancelment shall be certified by the Magistrate on the back of such contract.

Penalty on laborer for absenting himself without sufficient cause.

CI. Any laborer, who shall absent himself from his labor without sufficient cause, may, on conviction, be sentenced to lose all claim to wages or allowances during the period of such absence, and also to forfeit to his employer a sum not exceeding four annas for each day during which such absence shall have continued; and in case such absence shall have exceeded seven days, or in case such laborer shall have been already convicted of the same offence within a period of three months, such laborer shall be furthermore sentenced to rigorous imprisonment for fourteen days.

Laborer deserting may be apprehended without a warrant.

CII. If any laborer shall desert or attempt to desert from his employer's service, such employer, or any other person acting in his behalf, may, without first procuring a warrant, and without the assistance of any police officer (who, nevertheless, shall be bound to give such assistance if called upon to do so), apprehend such laborer wherever he may be found. Provided, nevertheless, that if such laborer be found in the service of another employer, he shall not be arrested without a warrant. Provided also, that such employer or other person shall, within a reasonable time from the time of such apprehension, give the said laborer in charge at the nearest police station, and there enter the charge upon which he shall have apprehended such laborer.

Proviso.

Further proviso.

Laborer, when made over to the police, to be taken before the nearest Magistrate.

CIII. Any laborer so given in charge shall be conveyed, without delay, to the nearest Magistrate; and if the place from which such laborer is charged with having deserted be within the jurisdiction of such Magistrate, he shall himself adjudicate upon the charge; but if not, he shall forward the said

laborer, under custody, to the Magistrate within whose jurisdiction such place may be situated, who shall adjudicate upon such charge.

Punishment for desertion.

CIV. Every laborer who shall desert from his employer's service shall be liable, upon conviction, to rigorous imprisonment which may extend to one month, and every laborer who, after having been convicted of desertion shall again desert from his employer's service, shall be liable to rigorous imprisonment which may extend to two months; and every laborer who after having been twice convicted of desertion shall again desert, shall be liable to imprisonment which may extend to three months.

Cancellation of contract by desertion.

CV. Whenever any laborer shall have actually suffered imprisonment amounting in the whole to six months for desertion from his employer's service, it shall be lawful for the inspector, and he is hereby required, to cancel the contract of such laborer; and every such cancellation shall be by the inspector certified on the back of the contract, and such laborer shall then be at liberty either to enter into a fresh contract with any employer or to return to the district from which he was recruited.

Provisions regarding desertion and unlawful absence to apply to desertion in transit.

CVI. All the provisions of this Act regarding the desertion or unlawful absence of laborers shall be held applicable to laborers who shall desert while in transit to the district in which they have contracted to labor for hire; and such laborers may be tried either in the district in which they may be apprehended, or in the district in which under their contracts they are bound to labor for hire.

Penalty for enicing away, harbouring, or employing laborers under contract to another person.

CVII. Any person who shall knowingly and wilfully entice away, harbour, or employ, or attempt to entice from his employment, any laborer, before such laborer shall have been lawfully released from his contract, shall be liable to a fine, the whole or any portion of which may be awarded to the employer of such laborer.

Portion of sentence may be cancelled if employer apply for return of laborer.

CVIII. It shall be lawful for the employer, or any person authorized to act for the employer, of any laborer imprisoned for any offence under this Act, to apply to the Magistrate, at any time

previous to the expiry of such sentence, that such laborer be made over to him for the purpose of completing his contract, and the Magistrate may, if he see good cause, make over or forward such laborer to his employer, and in that case the Magistrate shall cancel the remainder of the sentence passed on him, and shall endorse on the contract of such laborer a memorandum signed by him of such cancellation.

Expense of restoring a deserting laborer to be borne by his employer.

CIX. Every employer who shall obtain an order for the return or forwarding of any laborer who may have deserted shall pay the expense of the return or forwarding of such laborer, and shall, before the order is issued, deposit with the Magistrate such sum as such Magistrate may in his discretion deem to be sufficient for defraying the expense of such return or forwarding.

Conviction not to operate as a release, but on expiry of sentence laborer to be made over to employer.

CX. On the expiry of any sentence of imprisonment for any offence under this Act, save as is provided in section CV, it shall be the duty of the Magistrate to make over such laborer to any person appointed on the part of his employer to receive charge of him; and no conviction under this Act, or imprisonment under such conviction, shall, save as aforesaid, be held to operate as a release to any laborer from the terms of his contract. Provided, nevertheless, that the period of imprisonment shall in no case be prolonged by reason of there being no person present on the part of the employer to take charge of the laborer at the expiry of his sentence; but such laborer shall, in that case, be sent to the principal place of business of such employer, and the expense of such conveyance shall be levied from the employer in the manner provided under this Act for the recovery of the rates imposed under this Act.

Time of unlawful absence and of imprisonment to be included in term of laborer.

CXI. The duration of every unlawful absence from labor, of which any laborer may be convicted, and every sentence of imprisonment for any offence under this Act, shall be endorsed on the contract, at the time of its being passed, by the officer passing it; and no such period of imprisonment

or unlawful absence so endorsed shall be reckoned as part of the term for which the laborer is bound to serve, but such term shall extend to such further period as shall be equivalent to the aggregate amount of the imprisonment and unlawful absence so endorsed.

If the inspector believe any estate or part thereof to be unfit for habitation, a committee shall be summoned.

CXII. If an inspector of laborers shall at any time have reason to believe that any estate or portion of an estate situated within the limits of his jurisdiction is, by reason of climate or situation, unfit for human habitation, such inspector shall give notice in writing of his opinion to the Magistrate of the district, and such Magistrate shall forthwith summon a committee to enquire into the fitness of such estate or portion thereof for human habitation. Such committee shall consist of the Magistrate, the inspector of laborers, the medical officer of the district, and at least one employer of laborers resident in the district. Such committee shall proceed, with as little delay as possible, to enquire into the healthiness of the estate or portion thereof to which the inspector's report has reference, and shall hear such evidence on the subject as the owner of such estate or portion of the estate as aforesaid, or the employer or inspector, may desire to place before it; and if such committee, or the major part in number thereof, shall be of opinion that such estate or any portion thereof is unfit for human habitation, it shall record a finding to that effect; and the contract of every laborer who shall have contracted to serve on such estate shall thereupon be null and void as regards such estate or such portion thereof as may be found unfit for human habitation. Provided, however, that every such contract shall continue valid with regard to any other portion of such estate, or to any other estate of the same employer.

Penalty on permitting laborers to reside on unhealthy estates.

CXIII. Every employer who shall cause or permit any laborer to reside upon any such estate or portion of an estate as, under the provisions of the section last preceding, may have been found to be unfit for human habitation, shall be liable to fine. Provided always that in case it shall appear to the

inspector that any such estate, or portion of an estate, or any part of such portion, has become fit for human habitation, he shall give under his hand a certificate of such fitness, and no employer shall be liable to fine by reason of his causing or permitting laborers to reside in any place respecting which such certificate of fitness shall have been given.

Penalty for any offence not specially provided for.

CXIV. For every offence aganist the provisions of this Act, for which no special penalty or amount of fine is hereinbefore appointed, the offender shall be liable to a fine not exceeding two hundred rupees. Wherever in this Act no special term of imprisonment is appointed in default of payment of the fine, the offender shall be liable to imprisonment, simple or rigorous, for a term not exceeding one month.

Procedure.

CXV. All offences against this Act committed without the town of Calcutta, shall be heard and determined according to the provisions of the Code of Criminal Procedure, and all offences against this Act committed within the said town, shall be heard and determined by a Police Magistrate of the said town acording to the provisions of the law regulating the hearing and determination of offences within the said town, which shall for the time being be in force.

Disposal of fines, fees, and rates.

CXVI. Subject to the powers hereinbefore conferred on Magistrates of awarding fines in whole or in part as compensation to or for the benefit of any complainant or other person, all fines, fees, and rates levied and paid under this Act shall be applied in defraying the expenses of carrying out the purposes of this Act in such manner as the Lieutenant-Governor of Bengal shall from time to time direct.

Certain sections of Act to apply to all laborers.

CXVII. In all cases where any laborer shall, under the provisions of the said Act III of 1863, or of the said Act VI of 1865, have been, or, under the provisions of this Act, shall be, conveyed to any of the said districts for the purpose of laboring for hire, such laborer and his employer for the time being and the contract under which for the time being such laborer shall be serving (whether entered into

under either of the said Acts or this Act or otherwise) shall, notwithstanding anything in the contract contained to the contrary, be subject to the provisions of this Act contained in sections LXXII to LXXXI both inclusive, sections LXXXV to XCI both inclusive, and sections XCIII to CXVI both inclusive.

Act not to apply to domestic servants or to laborers proceeding alone.

CXVIII. None of the provisions of this Act shall apply to domestic servants, nor to any person proceeding alone, or accompanied by his family only, nor to any number less than twenty of persons proceeding with or without their wives or their children under twelve years of age to the said districts to labor for hire without the intervention, direct or indirect, of a recruiter, or of a contractor, or of a garden sirdar.

Repeal of Acts.

CXIX. Act III of 1863 and Act VI of 1865, passed by the Lieutenant-Governor of Bengal in Council, shall from and after the commencement of this Act stand and be repealed.

Commencement of Act.

CXX. This Act shall commence and take effect from the first day of November 1869.

SCHEDULE A. (*referred to in Section V.*)

CONTRACTOR'S LICENSE.

Office of the Superintendent of Labor Transport at

A. B. is hereby licensed to act, within the local limits of my authority, as a contractor for engaging and supplying persons for the purpose of laboring for hire in the districts of Assam, Cachar, and Sylhet, under Act II of 1870 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.

This license will be in force for one year only from this date.

Dated the day of

(Sd.) C. D.,

Supdt. of Labor Transport.

SCHEDULE B. *(referred to in Section VIII.)*

RECRUITER'S LICENSE.

Office of the Superintendent of Labor Transport at

A. B. is hereby licensed to act on behalf of E. F. as a recruiter for engaging or inducing persons to proceed to the districts of Assam, Cachar, and Sylhet for the purpose of laboring for hire under Act II of 1870 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.

This license will be in force for one year only from this date.

Dated the day of

(Sd.) C. D.,

Supdt. of Labor Transport.

ACT No. III OF 1870.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 21st May 1870, and of the Governor-General on the 27th idem.)

An Act to transfer certain pending suits to the Civil Courts.

Preamble.

Whereas it is expedient to transfer to the Civil Courts certain suits and proceedings now pending in the Revenue Courts; It is enacted as follows:—

How suits and applications to be tried.

I. From and after the date of the commencement of this Act, all suits and applications under any of the Acts mentioned in Schedule (D) to Act VIII of 1869, passed by the Lieutenant-Governor of Bengal in Council, which may be then pending in any of the Revenue Courts in any place to which the said Act may extend, shall be heard and determined in manner hereinafter enacted.

Suits to be transferred to Civil Court.

II. All suits in which no witness has been summoned after settlement of issues and before the commencement of this Act, shall be transferred to the Civil Court which would have had jurisdiction had the suit been instituted under the said Act VIII of 1869, and shall be heard and determined therein.

Decrees to be likewise transferred.

III. All decrees in which an order for the attachment of property has not at the time of the commencement of this Act been issued, and all decrees which shall after the commenecment of this Act be made in any suit now pending in the Revenue Courts, shall be transferred to the Court which under the provisions of the said Act VIII of 1869 would have jurisdiction to entertain the suit in which the same were made, and such execution and proceedings may be had

in respect of such decrees as if the same were decrees of the Court to which they shall have been so transferred made in pursuance of the said Act VIII of 1869:

Procedure on transferred suits.

IV. The same procedure which applies to suits and applications under the said Act VIII of 1869, shall be held to apply to all suits and applications transferred by this Act to the Civil Courts; but no proceeding before such transfer had in any such suit or application in such Revenue Court in accordance with the law or practice of such Court, shall be deemed invalid or irregular by reason of any law or practice governing or prevailing in such Civil Court.

Act not to affect other applications.

V. Nothing in this Act shall affect applications, not being applications in suits, nor applications for execution of, or in relation to, decrees transferred under the provisions aforesaid.

Powers of Civil Court.

VI. The Civil Court to which any suit, application, proceeding, or decree, shall have been transferred under the provisions of this Act, shall have such and the same powers with respect to such suit, application, proceeding, or decree, as if the same had been instituted, made, or recovered in such Civil Court in pursuance of the said Act VIII of 1869.

No charge to be made for fresh summons.

VII. Whenever any process or summons may have been served on any person in any suit or proceeding transferred by the operation of this Act before such transfer shall have taken effect, and in consequence of such transfer it may become necessary to serve any further or other summons or process upon the person so served, in substitution for such first mentioned summons or process, such new or other summons or process shall be served by such Civil Court without any charge by way of tulubana or otherwise being made for such service.

Commencement of Act.

VIII. This Act shall commence and take effect upon the first day of June 1870.

ACT NO. IV OF 1870.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of His Honor on the 20th May 1870, and of the Governor General on the 17th June 1870.)

An Act to consolidate and amend the law relating to the Court of Wards within the Provinces under the control of the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards within the Provinces subject to the control of the Lieutenant-Governor of Bengal; It is enacted as follows :—

PART I.

Definitions.

Interpretation.

I. In this Act the following words and expressions shall have the meanings hereby attributed to them respectively, unless a contrary intention appear from the context, that is to say—

"Collector."

The word "Collector" includes any officer in charge of the revenue jurisdiction of a district.

"Court."

"The Court" shall mean the Court of Wards.

"Estate."

The word "Estate" shall mean any land subject to the payment to Government of revenue in respect of which the name or names of a proprietor or of proprietors are entered on the general register of estates paying revenue immediately to Government in the collector's office of the district.

The words "Disqualified Proprietor" shall mean persons who by the provisions of this Act are subject to the superintendence and jurisdiction of the Court of Wards.

"Disqualified Proprietor."

The word "Minor" shall mean a person under the age of eighteen years.

"Minor."

PART II.

Persons disqualified to manage their own property; and properties which may be brought under the management of the Court of Wards.

II. All proprietors of entire estates (other than proprietors who are subject to the jurisdiction as respects infants and lunatics of a high court) who are, or may be, females not deemed by the court competent to the management of their own estates, or who are, or may be, minors, and all proprietors of entire estates who for the time being are, or may be, of unsound mind, or otherwise incapable of managing their affairs by reason of any disqualifying natural or acquired defect, shall be subject to the superintendence and jurisdiction of the court of wards; and all estates, the property of any such disqualified proprietors, when taken charge of by the court of wards, shall, whilst they shall be under the superintendence and jurisdiction of the court, be exempt from sale for arrears of revenue. Provided, however, that all arrears of revenue shall be the first charge upon the proceeds of such estate in case the same may be sold for any other cause while under such superintendence and jurisdiction.

Estates of disqualified proprietors not subject to sale.

III. The superintendence of the court is not to extend to joint proprietors of estates, any one of whom may not be of any of the descriptions specified in Section II. Provided that whenever, by any order made under the provisions of Section XIV. of Act XL. of 1858, passed by the Legislative Council of India, any collector shall be directed to retain possession of the persons and properties of still disqualified proprietors, all further proceedings

Provision as to estates of joint proprietors.

shall be had and taken according to the provisions of this Act as if such still disqualified proprietors were proprietors of an entire estate. And in case any of the qualified proprietors shall so consent, the management of the shares of such qualified proprietors may be retained or assumed by the collector and carried out under the provisions of this Act, so long as it shall seem fit to the collector and such qualified proprietors.

Disqualified persons acquiring estates.

IV. No person shall become a ward of the court by reason of his acquiring, while subject to any such disqualification as aforesaid, any estate, unless the same shall have accrued to him in the regular course of inheritance on the death of the person to whom he may succeed in such estate, or under, and by virtue of, the will of, or some settlement made by, some deceased owner thereof. Provided always that it shall be competent to the Board of Revenue to direct the court to take charge of any estate, being the property of any disqualified person, or of any two or more persons, both or all of whom may be disqualified, although the same shall not have descended to such person or persons in any regular course of inheritance or succession, nor accrued to him or them by devise or settlement as aforesaid, whenever the same shall appear to the Board of Revenue to be advisable for the interests of Government, and of the proprietor or proprietors; and such estates under the superintendence and jurisdiction of the court shall be exempt from sale for arrears of revenue accruing whilst they shall be under the superintendence and jurisdiction of the court. Provided, however, that all arrears of revenue shall be the first charge upon the proceeds of such estates in case the same may be sold for any other cause while under such superintendence and jurisdiction. And such estates shall be considered in all respects, as far as regards the management of them by the court, as if they had devolved to the proprietor or proprietors in the regular course of inheritance or succession, or accrued to him or them by devise or settlement as aforesaid: and such proprietor or proprietors shall in all respects be treated by the court accordingly.

V. When any person shall become a ward, the court shall take charge of all property, real or personal, belonging to such proprietor, inclusive of any share in any joint undivided estate and of any tenures or shares of tenures of land. Provided that no such share, if subject to the payment of public revenue, shall be liable to sale for recovery of arrears of revenue, or for other demands similarly recoverable, until after the end of the year in which such arrears accrued. When, however, the share has been separated under Section X. or XI. of Act XI. of 1859, passed by the Legislative Council of India, the protection given to entire estates under Section II. of this Act will be extended to such share subject to the provisions of Sections XIII. and XIV. of the said Act XI. of 1859.

Court to take charge of property.

VI. It shall be lawful for the court, if it shall think fit, by an order under the seal thereof, to refuse to admit any such disqualified proprietor as aforesaid to be a ward thereof: or by like order, and with the sanction of the Board of Revenue, to discharge any estate from the court's further superintendence and jurisdiction. Provided, however, that no estate, the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of some deceased owner thereof, shall, until such minor or some one or more of such minors shall have attained the age of eighteen years, be sold for arrears of revenue accruing subsequently to his or their succession to the same: Provided, also, that all arrears of revenue shall be the first charge upon the proceeds of such estate in case the same may be sold while such proprietor is disqualified. But the revenue authorities shall, on an arrear so accruing, be authorized to farm the estate for a period not exceeding ten years, nor exceeding the time when the minor or one of the minors shall have attained the age of eighteen years. Provided, further, that the court may by a further order rescind any such order and make

Power to refuse to admit ward.

such disqualified proprietor a ward of the court. The exemption from sale for arrears of revenue, given by this section, shall only apply to cases where due notice shall have been given to the collector, and been acknowledged by him before the sale, of the fact that the estate is the sole property of a minor, or the property of two or more minors.

Application of proceeds of farmed estate.

VII. When an estate shall have been farmed under the provisions of the last preceding section, the proceeds of such farm shall be paid to the collector, and the collector, after the deduction of the amount of the claims of the Government for revenue, shall, with the sanction of the Board of Revenue, either pay the same to the person authorized to receive for the minor, or shall dispose of it for the minor's benefit in any the modes mentioned in Section XLIX.

PART III.

Constitution and powers of the Court of Wards.

Court of Wards in each division.

VIII. In every division of the provinces subject to the control of the Lieutenant-Governor of Bengal, there shall, from and after the passing of this Act, be a court of wards. The commissioner of revenue of each such division shall be such court, and shall have and exercise all the powers and authorities conferred by this Act upon the court over the persons and property of all wards of such court.

Power to manage estates.

IX. It shall be competent to the court to manage estates and other lands falling under their charge, either by appointment of a manager, or by giving some or all of the estates and lands in farm, or by adopting such other form of management as may to the said court seem most expedient. Provided that no lease or farm shall, except under the sanction of the Board of Revenue, be given for a term exceeding ten years, nor beyond the period of expiration of the ward's minority, and provided that all leases given

by the court, or by the collector acting for the court, or by the manager, shall become null and void on the removal of the estate from the superintendence of the court for whatever cause, save leases made with such sanction as aforesaid.

Power to make orders.

X. It shall be lawful for the court from time to time to make such orders and to give such instructions for the management of the estates and properties and the care of the persons of the wards thereof, or of any of them, as to such court shall seem fit, and from time to time to alter, vary, or revoke any such orders or instructions, provided that such orders be not inconsistent with the provisions of this Act or of any law for the time being in force, or of any orders which may from time to time be made by the Lieutenant-Governor under the provisions of this Act, or of any orders issued by the Board of Revenue.

PART IV.

Powers and duties of Collectors.

Collector to have charge of ward whose estate is in his district.

XI. When the estate or lands of a ward are situated within one district only, the collector of such district shall exercise the duties of the court with respect to the ward and to his moveable and immoveable property.

If estate in more than one district, court to appoint collector to have charge of ward.

XII. When the estate or lands of a ward are situate within more than one district but within the same division, the court in that division shall appoint some one of the collectors within the division to exercise the duties of the court with respect to the person of the ward.

Collector to administer estate in his district.

XIII. When the estate or lands of a ward are situated within more than one district but within the same division, the collector of each district shall exercise the duties of the court with respect to the ward's property situate within his district. Provided, however, that it shall be lawful to the court, with the sanction of the Board of Revenue, to entrust to any one collector the control

of the management of any portion of the ward's property not situate within his own district.

Where estates in several divisions, court to have charge of ward to be determined by Board of Revenue.

XIV. When the estate or lands of a ward are situate within two or more divisions, the Board of Revenue shall determine the court which shall have the charge of the person of the ward. And such court shall appoint some one of the collectors within its own division to exercise the duties of the court with respect to the person of the ward.

Superintendence of estates and property in different divisions.

XV. When the estate or lands of a ward are situate within two or more divisions, the court of each division and the collector of each district shall control and superintend the management of such portion of the property as is situate within their jurisdictions. Provided that the court to whom the charge of the ward's person has been committed under the preceding section shall exercise a general control over all disbursements and payments connected with the ward's property wherever situate and over the accounts of such property. Provided also that it shall be competent to the Board of Revenue to direct that the court in charge of the ward shall have the entire control of all or of portions of the ward's property wherever situate, under such form of management as may appear to such Board advisable, or to take any other action which may seem convenient for the due care of the ward's interests and the efficient management of his property.

Collector to seize seals, papers and moveable property.

XVI. Immediately on an estate being, under the provisions of section XXX, declared subject to the jurisdiction of the court, the collector shall search for and take possession of all seals and such accounts and papers as it may appear to him advisable to take possession of, and shall, at his discretion, remove them to his own office, or send them to the custody of the court. He shall also take possession of all moveable property and place under proper custody such portion thereof as he may think necessary. And it shall be lawful for the collector in case he has reason to believe

that any such seal, account paper or property is in any room, box, or receptacle, within any house or on any land in the actual possession of the ward, to break open the same for the purpose of searching for such seal, account paper or property.

Collector to deliver inventory.

XVII. Every collector shall within six months from the date of his taking possession of the property of a ward under the provisions of this Act, deliver to the court an inventory of all immoveable and moveable property so taken possession of.

Collector to be subject to court.

XVIII. All orders and proceedings of a collector, under the provisions of this Act, shall be subject to the revision of the court, and every person aggrieved by any such order or proceeding may, within a month from the date of such order or proceeding, prefer an appeal therefrom to the court in charge of the estate in respect of which such order may have been made or proceeding taken; or in case such order may not have been made in respect to an estate, then to the court in charge of the ward in respect to whom or to whose property such order may have been made, or proceeding taken: Provided always that it shall be lawful for such court, if it shall think fit, to revise, modify, or reverse any such order or proceeding after the lapse of the said period of one month whether any appeal shall have been preferred or not.

PART V.

Mode of ascertaining the ground of disqualification.

Collector to report disqualification of proprietors.

XIX. Every collector, immediately upon his receiving credible information that disqualification under this Act attaches to any proprietor of an estate in his district, shall report the same to the court of his division, and shall specify the nature of the disqualification.

Proceedings on death of a proprietor whose heirs are disqualified.

XX. Whenever any collector shall receive information that any proprietor of an estate within his district has died, and that the heirs of such proprietor are disqualified, it shall be lawful

for such collector to take order for the safety and preservation of any moveable property of such deceased proprietor, and of all deeds, documents, and papers relating to any portion of the property of such proprietor, and for that purpose to cause the same or any part thereof to be removed to any public treasury or to place such guards in charge thereof as to him shall seem fit.

Inquiry in case of females.

XXI. If any female proprietor shall be reported to be disqualified from incompetency to manage her estate, the court shall immediately proceed to ascertain whether such proprietor be competent from her capacity and habits of business to manage her own estate, and such court shall, if satisfied that such proprietor is competent to the management of her own estate, by an order under the seal of such court, exempt her from the operation of this Act, and if not so satisfied, shall by a like order declare such proprietor to be a ward and shall immediately take charge of her estate under the provisions of this Act.

Inquiry in case of minors.

XXII. If any proprietor who is not subject to the jurisdiction, as respects infants, of a high court of judicature shall be reported to be a minor, the court shall direct the collector to proceed to enquire into the age of such proprietor, and for that purpose the collector shall have power to require the production in person of such proprietor, if a male, and of all documents from which the truth of such matter may appear, and to take evidence of witnesses upon oath or solemn affirmation. The collector shall record such evidence, and report thereupon, and shall submit such report and all evidence taken by him to the court. The court shall thereupon make an order declaring the age of such proprietor, and such order shall be final and conclusive for all the purposes of this Act. The court shall retain all documentary evidence filed with such report until the minor shall have attained the age of eighteen years, unless, upon an application made thereto, it shall see fit to allow any such document to be restored to the owner thereof.

XXIII. The collector may direct that any person having the unlawful custody or being unlawfully in possession of the person of any minor ward shall produce him or her before the collector on a day fixed by him, and may make such order for the temporary custody and protection of such minor as may appear proper. In the event of disobedience to his orders under this section, the collector may impose a fine not exceeding five hundred rupees, and a daily fine not exceeding two hundred rupees, until the production of the person of the minor. In the case of a female minor ward she shall not be brought into court.

Production of minor and order for his temporary custody.

XXIV. If a proprietor who is not subject to the jurisdiction in lunacy of any or either of the High Courts of Judicature be deemed disqualified on the ground of idiotcy, or lunacy, the court shall order the collector making such report to apply, in pursuance of the provisions of Act XXXV. of 1858, passed by the Legislative Council of India, to the civil court of the zillah within the jurisdiction of which such proprietor may reside.

Inquiry in case of lunatics, &c.

XXV. If a proprietor shall, under the provisions of Act XXXIV. of 1858, passed by the Legislative Council of India, have been found by any High Court of Judicature to be of unsound mind and incapable of managing his affairs, the court may (subject to the powers of the High Court under the said Act XXXIV. of 1858) take charge of the estate and lands of such proprietor situate beyond the local limits of the jurisdiction of such High Court, and deal with the same subject to the provisions of this Act. Provided that in such case no further proceedings shall be taken under the last preceding section, nor shall it be competent to the court to appoint a guardian of the person of the said proprietor. Provided also that the surplus income of the property so taken charge of by the court, after providing for the discharge of the Government revenue and the expenses of management, shall be disposed of from time to time in such manner as the said High Court shall direct, and not otherwise.

Proceedings in case of proprietor found lunatic by High Court.

Proceedings in case of proprietor found lunatic by Civil Court.

XXVI. When a proprietor resident beyond the provinces subject to the Government of the Lieutenant-Governor of Bengal, shall, by a civil court of competent jurisdiction, under the provisions of Act XXXV. of 1858, passed by the Legislative Council of India, have been declared to be of unsound mind and incapable of managing his own affairs, the court may take charge of the estate and lands of such proprietor situate within the said provinces and deal with the same subject to the provisions of this Act. Provided that in such case no further proceedings shall be taken under section XXIV. of this Act, nor shall it be competent to the court to appoint a guardian of the person of the said proprietor. Provided also that the surplus income of the property so taken charge of by the court, after providing for the discharge of the Government revenue and the expenses of management, shall be disposed of from time to time in such manner as the said civil court shall direct, and not otherwise.

Civil Court to make enquiry regarding disqualification on ground of natural or acquired defect or infirmity.

XXVII. If a proprietor resident without the local limits of the jurisdiction of the High Court be deemed to be disqualified on the ground of some natural or acquired defect or infirmity, other than unsoundness of mind, the court shall order the collector making the report to apply to the civil court within whose jurisdiction such person may be residing, and upon such collector so applying such civil court shall institute an enquiry for the purpose of ascertaining whether such person is or is not subject to such disqualifying defect or infirmity.

Proceedings in case of defect or infirmity when proprietor in jurisdiction of High Court.

XXVIII. If a proprietor resident within the local limits of the jurisdiction of the High Court of Judicature at Fort William in Bengal or resident beyond the provinces subject to the government of the Lieutenant-Governor of Bengal shall be reported by a collector to be disqualified by reason of some natural or acquired defect or infirmity other than unsoundness of mind, the court, within whose division the estate or lands of such proprietor are situate, shall order the collector making such

report to apply to the civil court of the 24-Pergunnahs, or to such other civil court as the Lieutenant-Governor, on application made to him by the collector in that behalf, may determine. Such civil court shall thereupon enquire into, and determine the question as to the alleged disqualification, and the provisions of sections IV. VII., and XXII. of the said Act XXXV. of 1858, shall apply to such enquiry.

Form of proceeding in such cases.

XXIX. When any enquiry is instituted before a civil court under section XXVII. or section XXVIII. of this Act, such court shall, for the purposes of making such enquiry, have such and the same or the like powers and authorities, and shall proceed in such and the same or the like manner and form as in and by the said Act XXXV. of 1858 are provided for making the enquiries in and by the same Act directed to be made. The civil court shall transmit to the court by which any enquiry, under section XXIV. or XXV. shall have been directed, a copy of the order made on each such enuiry, and the court shall thereupon, in case the proprietor shall have been found by the civil court to be disqualified, treat such proprietor as subject to its superintendence and jurisdiction.

Declaration of disqualification.

XXX. Whenever it shall have been determined under the provisions aforesaid that the proprietor of an estate is disqualified, the court shall make an order declaring such estate to be subject to the jurisdiction of the court, and directing charge of such proprietor and of his property to be taken, and the collector of every district within which there may be any property of the ward shall as soon as conveniently may be, take possession of such property, and the court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector to report particulars of estates of disqualified persons.

XXXI. Every collector in charge of a ward shall forthwith report to the court in charge of such ward, the condition of such ward, the particulars of his property, real and personal, so far as

the same can be ascertained, and the persons who respectively may appear to be most eligible to be appointed manager and guardian, with the grounds of such opinion. Provided always that when a guardian of a minor ward shall have been appointed by will, such person shall be appointed guardian by the court, unless the Board of Revenue, after a report received from the court, and after calling on the testamentary guardian to show cause, shall consider him disqualified or unfit.

PART VI.

Allowance for support of disqualified proprietors.

Allowance for ward.

XXXII. The court shall allow for the support of each ward and of his or her family such monthly sum as may seem fit with regard to the rank and circumstances of the parties and their indebtedness or freedom from debt.

PART VII.

Appointment and duties of Managers and Guardians.

Offices of manager and guardian distinct.

XXXIII. The offices of manager and guardian for wards shall be deemed to be wholly distinct.

Duties of manager and guardian respectively.

XXXIV. When the offices of manager and guardian are vested in different persons, the manager shall have the care of the moveable and immoveable property of such ward, save such property as may be under the immediate charge of any collector, and the guardian shall have the superintendence and care of the person and maintenance of the ward.

Power to appoint one person to be manager and guardian.

XXXV. It shall be lawful for the court in charge of a ward, if it shall think fit, to appoint the same person to be guardian and manager; but in every case where one person shall be appointed to be both manager and guardian, he shall render all such accounts, and perform all such duties as

in and by this Act are required from manager and guardian respectively and severally.

Documents to be executed by manager and guardian.

XXXVI. Every manager and every guardian shall sign and seal all papers, deeds, documents, and writings which may be executed by him by virtue of his office with his own name and seal, and shall add to his name his description of manager or guardian of the ward for whom he may act as the case may be; and every manager shall deliver to the collector in charge of the estate of which he is a manager, and every guardian shall deliver to the collector in charge of the ward, all family seals belonging to the ward which may come to his power or control, and such seals shall be deposited wherever the court shall order.

Appointment of manager of estate.

XXXVII. Every manager of the estate of any ward shall, subject to the approbation of the Board of Revenue, be appointed by the court in charge of such estate, and his commission shall be authenticated by the official seal of such court. Provided, however, that whenever any ward may have estates in more than one division, the manager appointed by the court in charge of such ward, shall be appointed manager of all other estates of such ward by the respective courts in and for the divisions in which such estates respectively are situate; but any such court may, with the assent of the Board of Revenue, appoint a separate manager for the estate or estates under its charge, or a sub-manager who shall act under the orders of the manager.

Manager to give security.

XXXVIII. Every manager of an estate, previous to the receipt of his commission, shall give security for the due performance of his duty as such manager, and shall execute an agreement with the collector for the time being in the form in Schedule (A). Provided that with the assent of the Board of Revenue such security may be dispensed with. Provided also that no security shall be required from a manager if he be the testamentary guardian.

XXXIX. The manager of every estate shall receive from such estate such remuneration, by salary, commission, or otherwise as shall be fixed and determined by the court with the assent of the Board of Revenue. Provided always that it shall be lawful for the court, with similar assent, by an order to alter or vary such remuneration, if it shall seem just and expedient so to do.

Remuneration of manager.

XL. All monies which may be recovered from any manager under the provisions of his obligation, shall be carried to the credit of the estate of the ward.

Application of penalties.

XLI. An establishment of necessary officers to act under the manager or sub-manager shall be fixed by the court in charge of the estate. The collector, after consultation with the manager, shall nominate the persons to be employed on such establishment, subject to the approval of the court.

Appointment of Officers.

XLII. The manager and all persons employed in the management of the estate of any ward, shall be deemed to be officers in the pay of Government, in respect of their employment and remuneration, and every manager, sub-manager, or guardian under this Act, shall be held to be a public accountant under the provisions of Act XII. of 1850, passed by the Legislative Council of India.

Managers, &c., to be deemed to be in pay of the Government.

XLIII. The court by which any manager or guardian or other person has been appointed, may, if it shall think fit, with the assent of the Board of Revenue, remove such manager or guardian or other person, and may order the person so removed to make over, within a time fixed by the court, any property in his hands to such person as the court may direct to receive the same, and to account to such person for all monies received and disbursed by such manager or guardian; and every such order may be enforced by the court by the imprisonment in the civil jail of

Power to remove manager.

the person disobeying the same, and by attachment of his property and keeping it under attachment, until the accounts or property shall have been delivered up. The collector in charge of any property of the ward, may, if he shall think fit, remove any officer appointed by himself, and may order any officer so removed to deliver his accounts or any property in his hands, and such order shall be enforced in manner aforesaid, and the diet-money of every person imprisoned under this section shall be paid out of the proceeds of the estate. Provided that every order for imprisonment by the court shall be subject to appeal to the Board of Revenue.

Manager or guardian removed, to remain liable to account.

XLIV. Every manager, sub-manager, or guardian, who may be removed or otherwise cease to fill such office, shall, notwithstanding his removal or cesser of office, continue liable to account to the court for his receipts and disbursements during the period of his management or guardianship, or tenure of office; and when any present manager, sub-manager, or guardian, or past or present officer subordinate to a manager sub-manager, or guardian, shall wilfully neglect or refuse to deliver his accounts or any property in his hands within such time as shall be fixed by the said court, the court may impose on him a fine not exceeding five hundred rupees, and in addition to any other remedy for the recovery of such fine, every such fine shall be a demand recoverable as an arrear of revenue.

Power to fine recusant and negligent managers, &c.

Duties of manager.

XLV. The manager appointed by the court shall have the care of the entire property, real and personal, of the ward, save estates or lands to which another manager may be appointed or which are under the direct management of a collector. He shall have the exclusive charge of all lands, save as aforesaid, whether malgoozary or lakeraj; as well as of all houses, tenements, goods, money and moveables of whatever nature belonging to the ward whose estate may be committed to his charge, excepting only the house wherein such ward may reside, the moveables wanted for his use,

and the money allowed for the support of the ward and the members of his family entitled to a provision; but every manager shall be subordinate to the court and to the collector under whose superintendence the estate or lands may be.

Application of monies received by manager.

XLVI. All monies received by any manager of an estate shall be applied by him in the first place in payment of the allowance fixed for the support of the ward and of all charges of management, and subject thereto in or towards the discharge of the monthly kists of Government revenue.

Priority of Government revenue and cost of management.

XLVII. In case any attachment be issued from any civil court against any sum of money which may be in the hands of the collector or manager, the payment of the charges of management and of all Government revenue which may for the time being be due from the estate of such ward shall have priority over such attachment. And no payment shall be made to the attaching creditor from any such sum until full provision shall have been made for the payment of such charges and revenue.

Manager to deliver accounts.

XLVIII. Every manager shall deliver a monthly account current, accompanied with vouchers, of his receipts and disbursements to the collector in charge of the estate, who shall audit the disbursements therein specified.

Application of surplus.

XLIX. Whenever upon any such monthly account current there may be any surplus after making the several payments directed in section XLVI, such surplus shall, at the collector's discretion, with the sanction of the court, be carried to the credit of the ward, or shall be applied in liquidation of any debt which may affect the property of the ward or any part thereof, and subject thereto, the same shall, if no such debts be outstanding, be expended by the manager, subject to the directions of the court, for the improvement of the lands of the ward, or otherwise for the benefit of the property under his charge.

L. Whenever the court in charge of a ward shall think it unnecessary or unadvisable to appropriate any surplus receipts to the improvement of the lands already under the manager's charge, the same shall, by the direction and with the privity of the court, be applied in the purchase of other landed property, or at interest upon Government security, or in the purchase of Government paper securities, or such other securities, stocks, or shares guaranteed by the Government of India and approved of by the Board of Revenue, as to the court shall seem fit. All title-deeds and documents relating to any land purchased under the provisions aforesaid, and all Government paper securities, and other securities and shares as aforesaid, shall be deposited in such public treasury as the court may direct. The court shall obtain the treasurer's receipt for all deeds, documents, and papers when deposited in any such treasury, and shall transmit an attested copy thereof to the collector in charge of the estate, to be delivered by him to the manager. Every manager of an estate, and every guardian in charge of a ward shall deliver any title-deeds, or Government or other securities belonging to the estate or property of a ward under his charge, to the said collector in charge of such estate, and such collector shall return a receipt for the same and transmit such deeds and securities to the court in charge of the ward, or deposit them in his public treasury as above directed. All interest or dividends which may become payable on Government or other securities or shares shall be paid to the manager and shall be accounted for by him in his monthly account current.

Power to invest surplus.

Custody of securities and papers.

LI. In addition to the monthly account current required in section XLVIII., the manager of every estate, at the expiration of every year, shall deliver to the collector in charge of such estate an annual account of all monies which have come to the hands of such manager during such year on account of such estate or on account of any property of such ward of which such collector may have charge, and of the application and disposal of all such

Manager to deliver annual accounts.

monies; and the said collector shall audit the disbursements, and take order that the whole of the surplus receipts be duly appropriated in the manner specified in sections XLIX. and L.

Management of estate when funds deficient.

LII. Whenever it shall appear to the court that the produce of the estate of any ward or of any other property of the ward is insufficient to provide for the expenses of a separate establishment for the management in conformity with sections XXXIV. and XLI. of this Act, the court shall take such order as from the circumstances of the case may appear best calculated for providing for the security of the public revenue and for the interests of the ward.

Person to whom accounts are to be furnished.

LIII. When portions of the same estate of any ward may be situated in different districts of the same division, the monthly and annual accounts of all such estates or portions of an estate required to be furnished by the manager, shall be rendered to the collector in charge of the ward. When the property of the ward consists of different estates or lands or parts of the same estate or land in different divisions, it shall be optional with the Board of Revenue to order that the accounts for the lands in each district shall be submitted to the collector of that district, or to the collector in charge of the ward, or to the manager or sub-manager.

Power to place several estates under one manager.

LIV. Whenever two or more estates belonging to different wards are so situated that they can be conveniently superintended by one manager, the court may, if it shall see fit, entrust them, or so many of them as may seem convenient, to the management of the same manager.

No person to be guardian who can succeed to ward.

LV. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving such ward, shall be appointed to be his guardian. Provided, however,

that this section shall not apply to the mother of a ward or to a testamentary guardian appointed under section XXXI.

Mode of appointing guardians.

LVI. Every guardian shall be appointed in the manner hereinbefore provided for the appointment of managers. Provided always that none but a female shall be appointed guardian of a female ward. Provided also that none but a person of the same religion, if Hindoo or Mahomedan, shall, except in the case of a testamentary guardian, be appointed guardian of a female ward, preference being given to female relatives if any such be eligible. Every guardian shall be subordinate to the court and to the collector exercising the duties of the court under sections XI, XII, XIV, and XV.

Power to dispense with guardian of female ward.

LVII. It shall be lawful for the court to empower any female ward herself to receive and disburse the allowance fixed for her maintenance, and in such case no guardian shall be appointed, or the guardian, if already appointed, shall be removed.

Remuneration for guardian may be ordered.

LVIII. The court may order reasonable remuneration to be paid from the allowance fixed for the maintenance of any ward to the guardian of such ward.

Guardian to give security.

LIX. The guardian, previous to the receipt of his commission, shall give security for the due performance of his duty during the continuance of it, and shall execute an agreement with the collector for the time being in charge of the ward in the form in Schedule (B). Provided that with the assent of the Board of Revenue such security may be dispensed with. Provided also that no security shall be required from a testamentary guardian.

Establishment of servants to be fixed.

LX. An establishment of necessary servants to act under the guardian shall be fixed by the court, and the expense thereof shall be defrayed from the allowance fixed for the support of the ward.

Custody of persons of wards.

LXI. The right to the custody of the person of every ward not being an adult female, is hereby vested in the person who for the time being may be guardian of such ward under this Act, or, in the absence of such person, in the collector in charge of such ward. Provided always that no guardian shall be appointed nor continued for a female ward if she has an adult husband.

Guardian to give account of expenses.

LXII. The guardian shall deliver a monthly account current, accompanied by vouchers, of his receipts and disbursements to the collector in charge of the ward, who shall audit the disbursements therein specified, and see that the receipts have been fairly and duly appropriated. The guardian shall also deliver an annual account current which shall be in like manner audited by such collector, and if there shall be any surplus remaining in the hands of such guardian which such collector may think unnecessary for the guardian's expenses in the ensuing year, he shall cause the same to be paid into court to the credit of the ward, and the same shall be applied by the court for the increase of the property of the ward in manner hereinbefore provided for the application of the surplus of the income of such minor.

Saving of Act XXXV. of 1858.

LXIII. Nothing in the preceding sections shall be held to interfere with the provisions of the said Act XXXV. of 1858.

PART VIII.

Education of Minors.

Education of minor wards.

LXIV. The general superintendence and control of the education of every minor ward is hereby vested in the court.

Residence of minors.

LXV. It shall be lawful for the court to direct that any such minor, if a male, shall reside either with or apart from his guardian at the sudder station of the district or at any other place approved of by the Board of Revenue, and shall attend, for the purposes of edu-

cation, such school or college as to the Board of Revenue may seem expedient, or be educated either at his own home or elsewhere by a private tutor, and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

Expenses of education of minors.

LXVI. All charges and expenses which may be incurred on account of any such minor ward under the provisions of this Act for college or school fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of the property.

PART IX.

Debts of the Estate.

Debts to be reported to court.

LXVII. Every manager to whom the existence of any debt payable out of any estate or out of any other property in his charge under this Act may become known, shall immediately report the same to the collector, who shall without delay report to the court the nature and amount of such debt, and in such report shall state his opinion respecting the best mode of satisfying the same.

Power of sale and mortgage for the payment of debts.

LXVIII. With the consent of the Board of Revenue it shall be competent to the court in charge of any ward, in any case in which it shall appear expedient, to sell or mortgage any property of a ward for the purpose of liquidating any just debts due in respect of the property of such ward, or for the purpose of raising any money for the cost of any suit in which the ward may be a party, or for the purchase of any share of any property of which the ward may be a co-sharer, and for the default in payment of the revenue of which the ward's share may, under the provisions of Act XI. of 1859, passed by the Legislative Council of India, be liable to sale, and for the purpose of

any such sale or mortgage, any conveyance executed by the collector in charge of the ward, under the order of the court, shall be valid to pass the estate and inheritance, right, title, and interest in the property in such conveyance mentioned of such ward and of every person whom such ward, if not disqualified, could have bound by a conveyance made for the payment of the debts of the ancestor from whom such property descended. If the property so ordered to be sold or mortgaged be part of an estate of which such ward be the sole proprietor, or if it be a share of an estate separated under the said Act XI. of 1859, and if it shall appear to the court that it will be to the interest of such ward or of the Government that such part or share be formed into a separate estate prior to such sale or mortgage being effected, it shall be competent to the court to direct the collector within whose jurisdiction such part or share be situate, to partition it off into a separate estate, and such partition shall be conducted in accordance with the law which may be for the time being in force for the partition of estates.

PART X.

Suits.

Manager to be next friend or guardian in suits by or against ward.

LXIX. In every suit brought by or against any ward in any court other than the high court, he shall be therein described as a ward of court; and in case he have a manager of his estate or estates as hereinbefore provided, such manager shall in such suit be named as next friend or guardian in the suit of such ward, and shall in such suit represent such ward, and no other person shall sue as next friend or be named as guardian in the suit by any civil court in which such suit may be pending. But the court of wards may by an order nominate or substitute any other person to be next friend or guardian in any such suit; and upon receiving a copy of any such order of substitution, the court in which such suit shall be pending shall substitute the name of the next friend or guardian in the suit so appointed, for

the name of the manager of the ward's property. If the ward have no manager, the collector in charge of such ward shall be named as next friend or guardian in the suit of such ward.

Payment of costs of manager.

LXX. If in any suit instituted by or against a ward any civil court may decree any costs against the manager as guardian or next friend, or against any other person nominated as guardian or next friend under the provisions of section LXIX, the court shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

Process against wards to be served through court.

LXXI. Every process which may be issued out of any civil court other than the high court against any ward, shall be served, through the court, upon the next friend or guardian in the suit of such ward and upon the collector in charge of the estate of such ward.

Suits not to be brought on behalf of minors.

LXXII. No suit shall be brought on behalf of any ward unless the same be authorized by some order of the court in charge of such ward. Provided that nothing herein shall be deemed or taken to apply to any suit instituted or depending in the High Court.

Power to compromise suit by or against ward.

LXXIII. It shall be lawful for the court to submit to arbitration, or otherwise to compromise, any claim which may be made by or on behalf of or against any ward, and every such submission to arbitration or compromise shall have the same force and effect as if the ward were not subject to any disqualification and had personally entered into such submission or compromise; and for the purpose of any such compromise, any conveyance executed by the collector under the orders of the court shall be valid to pass the estate and inheritance, right, title, and interest in the property therein comprised of the ward, and of all persons whom such ward, if not disqualified, could have bound by a conveyance made

for the payment of the debts of the ancestor from whom such property descended.

PART XI.

Adoption.

Adoption by ward invalid without consent of Lieutenant-Governor.

LXXIV. No adoption by any ward and no written or verbal permission to adopt given by any ward is to be deemed valid without the previous consent of the Lieutenant-Governor, on application made to him through the court and Board of Revenue.

PART XII.

Miscellaneous.

Tenures of wards' estates under collector.

LXXV. Farmers and others holding tenures in estates in charge of the court direct from the collector shall be subject to the same rules, regulations and acts as are applicable to other persons holding similar tenures and interests under collectors of the land revenue; but when the farm is held from the manager these rules, regulations and acts, shall not apply.

When estate managed by collector, he is to submit same accounts as manager.

LXXVI. When a ward's property is managed wholly or in part under the system of farms held direct from the collector, or is managed direct by the collector, the collector shall prepare and submit to the court the same accounts that are ordered to be prepared by the manager when the property is managed by a manager.

Procedure on termination of wardship.

LXXVII. Whenever an estate shall cease to belong to a disqualified proprietor, or it shall be considered advisable to remove an estate from the superintendence and jurisdiction of the court, the court shall make an order that the superintendence and jurisdiction of the court over such estate shall cease on a date not more than sixty, and not less than fifteen days from the

date of such order. Immediately on issue of this order a copy of such order shall be posted up in the office of the court, and copies thereof shall be sent to the collector in charge of the ward, and to every collector in charge of any estate or property of such ward, and every such collector shall forthwith, on receipt of such copy, notify the intended cessation of the court's charge by a notice put up in such collector's office, and in some conspicuous place in the estate.

Accounts and lists to be furnished on termination of wardship.

LXXVIII. When an estate under the court of wards is released from the superintendence of such court a list in duplicate of the papers to be delivered, and of all immoveable and moveable property which may be in the custody or charge of the court or of any collector or manager, shall be made by such officer of the court as the court may direct, and such papers and moveable property shall be given up to the late ward or other person who shall succeed to his estate with one of the lists, on a receipt being affixed to the other, signed either by the late ward or the person who shall succeed to his estate, or by some person authorized to act on his behalf; also a complete account of the management, while under the superintendence of the court, of the property of the proprietor of such estate from the beginning, shall be prepared by the manager or collector (as the case may be) and submitted to the court, and a copy thereof given to the late ward, or to the person who shall succeed to his estate.

Where succession litigated, court may continue possession.

LXXIX. If on the death of any ward the succession to his property or any part thereof be in dispute, it shall be competent to the court, if it think fit, to continue the charge and management of such property or part thereof under the provisions of this Act, until an order for making over the possession and management of such estate shall have been made by a competent court.

LXXX. If within one year after the death of a ward the succession to whose property or some part thereof is in dispute, no suit be instituted to determine the right to the property so in dispute, it shall be lawful to the court with the sanction of the Board of Revenue either to make over such property to any claimant thereof, or to cause the same to be sold by public auction and the proceeds thereof, after deducting therefrom sums payable to Government, to be invested in Government promissory notes: such notes to be held by the court in trust for the person who may be entitled thereto.

Power to sell property the succession to which is in dispute.

LXXXI. Every sale to be made in pursuance of the last preceding section shall be valid to pass the right, title, and interest in the property so sold, of such deceased ward and of every person claiming by, through, or under such deceased ward or by way of succession, inheritance, remainder, or reversion, depending on the estate of such ward.

Effect of sale.

LXXXII. If a proprietor shall have been declared disqualified and shall have been afterwards restored, or if the estate of any disqualified proprietor shall legally devolve to, or come into the possession of, any person not disqualified for the management of it, such proprietor or his heir or successor is declared entitled to sue any person professing to have acted under the authority of the court, for any acts done by them respectively whilst the estate may have been under the charge of the court of wards in opposition to this or any other Act that may be hereafter enacted regarding disqualified proprietors and their estates, or to any order issued by the court of wards, or for any breach of their respective trusts.

Power to sue collector, guardian or manager.

LXXXIII. In cases instituted under this Act, the court shall be guided by the procedure prescribed in Act VIII. of 1859 passed by the Legislative Council of India in so far as the same shall

Procedure in cases instituted under this Act.

be applicable and material; and any order made by the court may be enforced as if such order had been made in a regular suit.

Power to Lieutenant-Governor to make rules.

LXXXIV. It shall be lawful for the Lieutenant-Governor to make such general rules for the better fulfilment of the purposes of this Act as he may think fit (provided such rules be not inconsistent with the provisions of this Act), and from time to time to alter, vary, or revoke any of such rules; and such rules, or alteration, or revocation of rules, shall be published in the *Calcutta Gazette*, and from and after such publication thereof, shall have the same force and effect as if they were inserted herein.

Court to be subject to Board of Revenue and Lieutenant-Governor.

LXXXV.* The powers and authorities vested by the provisions of this Act in the court shall be possessed and exercised subject to the entire control and supervision of the Board of Revenue and of the Lieutenant-Governor.

Repeal of laws.

LXXXVI. On and after the 1st day of June 1870, Regulation X. of 1793, Regulation L. of 1793 Regulation LV. of 1795, Section II. of Regulation III. of 1796, Section XXVI. of Regulation VII. of 1799, so far as regards the appointment of managers by the collectors, Act XXVI. of 1854, passed by the Legislative Council of India, so far as it relates to the provinces under the control of the Lieutenant-Governor of Bengal, and Section XXV. of Act XL. of 1858, passed by the same authority, so far as the same relates to any guardian appointed under this Act; and also Regulation VI. of 1822, so far as it relates to the provinces under the control of the Lieutenant-Governor of Bengal—shall stand and be repealed save so far as regards estates, properties, and wards which before the said 1st day of June 1870, may be under the control of the court of wards, but on and after the said 1st day of June 1870, all further proceedings respecting such estates, properties and wards shall be had in the courts created by this Act as if such estates, properties, and wards had been brought under the superintendence

of the court under the provisions of this Act, and all the powers and authorities by this Act conferred upon the Lieutenant-Governor of Bengal, the Board of Revenue, the court, the collector, the manager, or the guardian, shall in like manner apply to such estates, properties and wards.

Commencement of Act.

LXXXVII. This Act shall commence and take effect on the 1st day of June 1870.

Short title.

LXXXVIII. This Act may be called "The Court of Wards' Act, 1870."

SCHEDULE A.—(*Referred to in Section XXXVIII.*)

FORM OF AGREEMENT TO BE EXECUTED BY A MANAGER.

I, A. B., having voluntarily taken on myself the management of the estate of C., disqualified proprietor of D., do hereby engage with the collector of E., that I will manage the said estate diligently and faithfully for the said proprietor, and will use every means in my power to improve the same for his [her] benefit, and will act in every respect for his [her] interest in like manner as if the estate were my own. I also engage with the said collector to observe in all respects the provisions regarding managers contained in Part VII. of Act IV of 1870 of the Council of the Lieutenant-Governor of Bengal, and that I will derive no personal advantage from the management beyond the remuneration granted to me as manager. In the event of any breach of trust, neglect, or omission as manager being proved against me, I will pay to the said collector Rs. as liquidated damages.

SCHEDULE B.—(*Referred to in Section LIX.*)

FORM OF AGREEMENT TO BE EXECUTED BY A GUARDIAN.

I, A. B., having voluntarily taken upon myself the guardianship of C., disqualified proprietor of D., do hereby agree with

the collector of E., that I will execute the trust committed to me diligently, and faithfully, and according to the provisions regarding guardians contained in Part VII. of Act IV of 1870 of the Council of the Lieutenant-Governor of Bengal, and that I will derive no advantage directly or indirectly from the ward's allowance beyond the remuneration granted me as guardian. In the event of any breach of trust, neglect, or omission being proved against me, I will pay to the said collector Rs. as liquidated damages.

Repealed by Act III of 1880 (The Calcutta Port Act, 1890).

ACT NO. V OF 1870.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of His Honor on the* 11*th June* 1870, *and of the Governor-General on the* 12*th August* 1870.)

An Act to appoint Commissioners for making Improvements in the Port of Calcutta.

Preamble.

WHEREAS it is expedient to make further provision for improvements in the port of Calcutta, and for that purpose to appoint commissioners for making such improvements; It is enacted as follows :—

Interpretation.

I. The following words and expressions shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context.

"The Commissioners."

The words "the commissioners" shall mean "the commissioners for making improvements in the port of Calcutta" hereinafter incorporated.

"Commissioner."

The word "commissioner" shall mean a member of the said corporation.

"Vessel."

The word "vessel" shall include any ship, barge, boat, raft, or craft, or any other thing whatever designed or used for the transport upon water of passengers or goods.

"Land."

The word "land" shall include the bed of the river below high water-mark.

"Pier."

The word "pier" shall include a floating pier.

The word "wharf" shall include any bank of the river which may be improved to facilitate the loading or unloading of goods and any wall adjoining the river.

"Wharf."

The word "goods" shall include wares and merchandize of every description.

"Goods."

The word "port" shall mean the port of Calcutta.

"Port."

II. It shall be lawful for the Lieutenant-Governor of Bengal, at any time after the commencement of this Act, by order published in the *Calcutta Gazette*, to nominate and appoint nine persons to be commissioners for making improvements in the port of Calcutta, and by the same or any other order published in like manner to nominate one of such persons to be chairman and another of such persons to be vice-chairman.

Power to nominate commissioners.

III. Every person who shall be appointed to be a chairman, vice-chairman, or commissioner, shall, subject to the provisions hereinafter contained, continue to hold the office to which he shall be appointed for the term of two years, but may at the expiration of such term be reappointed.

Term of office under Act.

IV. The Lieutenant-Governor of Bengal, within one month after any person appointed to be a chairman, vice-chairman, or commissioner under this Act shall have died or ceased to be such chairman, vice-chairman, or commissioner, shall, by an order published in the *Calcutta Gazette*, appoint some other person to be a chairman, vice-chairman, or commissioner, as the case may be, in the place or stead of the person so dying or ceasing to be a chairman, vice-chairman, or commissioner.

Appointment of successors.

V. The commissioners for making improvements in the port of Calcutta to be appointed, as hereinbefore provided, and their successors, shall be and they are hereby created, a corporation under

Commissioners to be a corporation.

the name and style of "the commissioners for making improvements in the port of Calcutta," and they shall have a common seal.

Property of commissioners to be applied for purposes of this Act.

VI. All property vested in or acquired by the commissioners under or by virtue of this Act, and all moneys raised by or payable to them under or by virtue of this Act, shall be held in trust and be applied, in the first place, for the payment of all sums which from time to time shall be due and payable to the Secretary of State for India in Council under the provisions of Section VII of this Act, or for moneys advanced or applied or to be advanced or applied by or on behalf of the said Secretary of State for India in Council for the improvement of the port of Calcutta, or otherwise, under the provisions of Act X of 1866, passed by the Lieutenant-Governor of Bengal in Council, or of this Act, and subject thereto upon trust for the purposes of this Act, and not otherwise.

Amount of debt.

VII. There shall be deemed and taken to be due from the commissioners to the Secretary of State for India in Council, immediately upon the commencement of this Act, the several sums set forth in Schedule (A) to this Act annexed for the lands, works, and matters therein respectively set forth, making in the whole the sum of ten lakhs of rupees.

Repayment of principal sums due.

VIII. The said amount shall be repaid by the said commissioners to the said Secretary of State by triennial instalments of such amount and at such times as in Schedule (B) to this Act are appointed for the payment thereof, and every other sum which may become due from the commissioners to the said Secretary of State shall be in like manner by them repaid to him in ten equal triennial instalments, each of one-tenth of the amount of such sum, the first of such instalments to be paid on the 1st day of April which shall be next after the completion of twenty-four calendar months from the day on which such sum shall become due, and the other instalments to be paid respectively on the 1st day of April in every third year, computing from the day

fixed for the payment of the first of such instalments.

Payment of interest.

IX. Interest at the rate of 4½ per cent. per annum shall be paid by the commissioners to the said Secretary of State upon all sums which, for the time being, may be due to him from them upon the 31st day of March and the 30th day of September in each year, the first of such payments of interest upon the said sum of ten lakhs to be calculated from the 1st day of August 1870 and to be made on the 31st day of March in the year 1871, and the first of such payments of interest in respect of any other sum which may become due or payable from the said commissioners to the said Secretary of State to be calculated from the day on which such sum shall become due and to be made on the 31st day of March or the 30th day of September, whichever may first happen next after such sum shall have become due.

Power to repay before due date.

X. Notwithstanding the provisions of Section VIII, it shall be lawful for the commissioners, if they think fit, out of any moneys which may come to their hands under the provisions of this Act, to repay to the said Secretary of State in Council any sum which, for the time being, may remain due to him under the provisions of this Act for principal, although the time fixed by the said Schedule (B) for the repayment of the same shall not have arrived. Provided always that no such repayment shall be made of any sum less than ten thousand rupees, nor of any sum not being a multiple of ten thousand rupees, and from and after any such repayment no further sum as interest shall be payable to the said Secretary of State in Council in respect of the sum which shall have been so repaid.

The duties of the commissioners.

XI. The administration of the powers and trusts created and declared by this Act shall, subject to the powers and authorities hereinfter conferred on the Lieutenant-Governor of Bengal, be vested in the commissioners.

XII. No act or proceeding of the commissioners shall be invalidated or illegal in consequence only of there being a vacancy in the number of the commissioners at the time of doing or executing such act or proceeding. And all proceedings of the commissioners, or of any person acting as a commissioner in the *bonâ fide* belief that he was duly appointed, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of the commissioner or person acting as aforesaid, be as valid as if every such person had been duly appointed to be a commissioner.

Proceedings not to be invalidated by vacancy or informality of appointment.

XIII. Every person who, at any time after his appointment as a commissioner, shall be absent from six consecutive meetings without having the permission in that behalf of the commissioners, or who having such permission shall be absent from the meetings for a period exceeding a year, and every person who at any time after his appointment as a commissioner shall accept or agree to accept any office or place of profit under this Act, except the office of chairman or vice-chairman of the commissioners, or who shall, save with the sanction in writing of the Lieutenant-Governor, participate or agree to participate in the profits of any work done by order of the commissioners, or be concerned or participate in the profits of any contract entered into with the commissioners, shall thenceforth cease to be a commissioner, and his office shall thereupon become vacant; provided always that no commissioner shall vacate his office by reason only of his being a shareholder in any company registered under the provisions of any Act for the registration of joint-stock companies, passed by any Indian legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter, or otherwise, with which the commissioners may enter into any contract, or by reason of his being interested in any loan of money to the commissioners.

Disqualification of commissioners.

XIV. It shall be lawful for the Lieutenant-Governor of Bengal, by an order under his hand, to direct that any chairman or vice-chairman or commissioner named in such order shall cease to be chairman or vice-chairman or commissioner, and thereupon the person so named shall cease to be chairman, vice-chairman or commissioner, as in such order may be directed.

Power to remove chairman, vice-chairman, or commissioner.

XV. When any commissioner shall depart from Calcutta with an intention of being absent for a longer period than three months, or where any such member shall have been so absent for a period exceeding three months, it shall be lawful for the Lieutenant-Governor of Bengal to appoint some other person to act in the place and room of such absent commissioner until he shall return to Calcutta, or until he shall cease to be a member.

Acting commissioner may be appointed during absence of commissioner.

XVI. It shall be lawful for the Lieutenant-Governor of Bengal, by order in writing, from time to time to determine whether any and what salary and allowances shall be paid to the chairman or vice-chairman of the commissioners, and whether any and what fees shall be paid to the chairman or vice-chairman and commissioners for attendance at meetings for transaction of the business of the Trust: and in the order directing the salaries and fees to be paid as aforesaid the Lieutenant-Governor of Bengal may declare any conditions and restrictions upon and under which such salary, allowances, and fees shall be payable.

Salaries and fees of chairman and vice-chairman, and commissioners.

XVII. The commissioners may from time to time, by resolution passed at a meeting, appoint committees of their number for carrying into effect any part of the provisions of this Act, with such powers and under such instructions, directions, or limitations as by such resolution shall be defined, and on any such committee three members shall be a quorum, and the commissioners shall have power to alter or discontinue any such committee.

Commissioners may appoint committees.

XVIII. The commissioners shall from time to time prepare and submit to the Lieutenant-Governor a schedule setting forth the number of officers and servants necessary and proper for carrying out the purposes of this Act, and of the salaries, fees, and allowances which it is proposed to assign to such officers and servants, and the Lieutenant-Governor may sanction such schedule, or modify and sanction the same; and every such schedule so sanctioned shall remain in force until some other such schedule shall have been so prepared and sanctioned; and it shall not be lawful for the commissioners to employ any officer or servant for any office or employment not sanctioned in and by the schedule for the time being in force, nor to pay or allow to any officers or servants any salaries, allowances or fees greater than or beyond those sanctioned in such schedule. Provided always that artisans, porters, and laborers, and the sirdars of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section.

Establishment of commissioners to be sanctioned by the Lieutenant-Governor

XIX. It shall be lawful for the commissioners at a meeting, from time to time, to make rules for appointing the officers and servants to fill the offices and posts mentioned in the schedule for the time being in force under the provisions of the next preceding section, and subject to the provisions of such schedule for their necessary remuneration, and for the suspension or removal of any of such persons and the appointment of others in their place, and for the payment of such allowances to the said persons respectively, or in case of absence on leave, such portion of their salaries or allowances as to them shall seem fit, and from time to time in like manner to alter, vary, or revoke any such rules, and to substitute others in the place or stead thereof.

Commissioners to make rules for appointment of establishment.

XX. No officer or servant of the commissioners shall be in anywise concerned or interested in any contract or work made with, or executed for, the commissioners; and if any such officer or servant

Penalty on officers being interested in contracts.

be so concerned or interested, he shall be incapable of afterwards holding or continuing in any office or employment under the commissioners, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit by any person with full costs of suit. Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint-stock companies, passed by the Parliament of the United Kingdom or by any Indian legislature which may enter into any contract with the commissioners or execute any work for the commissioners.

Penalty for accepting illegal gratification.

XXI. If any person employed under this Act, not being a public servant within the meaning of Section XXI of the Indian Penal Code, shall accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever other than legal remuneration as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person with the commissioners, or with any public servant or with the Government as such, he shall be liable to the same punishment as is in that behalf provided for by the Indian Penal Code in the case of public servants.

Leave of absence may be granted to chairman or vice-chairman.

XXII. It shall be lawful for the commissioners at a meeting to grant, with the sanction of the Lieutenant-Governor of Bengal, such leave of absence to any salaried chairman or salaried vice-chairman of the commissioners, and to make such arrangements for carrying on the duties of his office during his absence on leave, as shall to them seem proper. Any person appointed under this section to act for any such chairman or vice-chairman shall, while so acting, have all the powers and be liable to all the restrictions and limitations which the chairman or vice-chairman would under

this Act have, and be liable to. In any case in which leave of absence to any chairman or vice-chairman shall be granted as aforesaid, the commissioners at a meeting may, with the sanction of the Lieutenant-Governor of Bengal, order to be allowed to such chairman or vice-chairman such portion of his salary during absence on leave as shall to them seem proper, and such allowance shall be paid accordingly unless and until the commissioners at a meeting shall otherwise direct.

Expenditure not to be increased by leave allowances.

XXIII. Save with the sanction in writing of the Lieutenant-Governor, no greater expenditure shall be in any case incurred in the whole by reason of any allowance paid upon the absence on leave of the chairman, vice-chairman or any other officer or servant of the commissioners than would have been incurred had no leave been granted.

Meetings of Commissioners.

XXIV. The commissioners shall meet for the transaction of business once at least in every fortnight. Such meetings shall be held upon such day and at such hour as the commissioners shall from time to time determine. At every meeting of the commissioners five members shall constitute a quorum.

Emergent meeting may be called.

XXV. The chairman or, in his absence, the vice-chairman of the commissioners may, whenever he thinks fit, and shall, upon request made in writing by three members of the commissioners, or two members of any committee, call an emergent meeting of the said commissioners or committee, as the case may be.

Who shall preside at meetings.

XXVI. The salaried chairman or salaried vice-chairman, as the case may be, of the commissioners shall attend all meetings of the commissioners held under this Act unless prevented by sickness or other reasonable cause, and the chairman or, in his absence, the vice-chairman shall preside at every such meeting. In the absence of both the chairman and the vice-chairman, the commissioners

present at any meetings may choose one of their number to preside. The president of any meeting at which a quorum of the commissioners shall be present may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

Minutes of proceedings of commissioners to be kept, and to be open for inspection.

XXVII. Minutes of the proceedings of all meetings of the commissioners under this Act shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the president after each meeting: and the said minutes shall at all reasonable times be open at the office of the commissioners to the inspection of any commissioner without charge.

Poll how to be taken.

XXVIII. If a poll be taken at any meeting of the commissioners, the votes of the commissioners present shall be taken by the president, and the resolution supported by the greater number of votes given at such poll shall be deemed to be the resolution of the commissioners at such meeting. The president shall have a second or casting vote in all cases of equality of votes.

Copy of minutes to be preserved in Bengal Office.

XXIX. A copy of the minutes of every meeting of the commissioners shall, as soon as conveniently may be, be transmitted to such Secretary of the Lieutenant-Governor of Bengal as he shall from time to time appoint for that purpose, and shall be preserved in the records of the office of such Secretary.

Chairman may exercise certain powers of commissioners.

XXX. All the powers, authorities and duties in and by this Act conferred or imposed upon the commissioners may be exercised and performed by the salaried chairman or salaried vice-chairman, save the powers, authorities and duties by this Act or by any rule, bye-law or order made under the provisions of this Act conferred or imposed on or restricted to the commissioners at a meeting.

XXXI. The commissioners shall, for the purposes of this Act, have power to acquire and hold immoveable or moveable property, whether within or without the limits of the port, by conveyance, gift, lease, assignment or sale from the Governor-General in Council, or the Lieutenant-Governor of Bengal, on behalf of the Secretary of State for India in Council, or any corporate body, or any registered joint-stock company or private person, and they shall also have power at a meeting to lease or sell any moveable or immoveable property which may have become vested in or been acquired by them, but which is no longer required for the purposes of this Act. Provided always that no such sale or other alienation or lease of any immoveable property for any estate or interest exceeding the term of ten years shall be valid unless the sanction of the Lieutenant-Governor of Bengal to such sale, alienation, or lease shall be first had.

Powers of the commissioners as to property.

XXXII. All property which under and by virtue of Act IV of 1869 passed by the Lieutenant-Governor of Bengal in Council became vested in the Secretary of State for India in Council shall, from and after the time when this Act shall come into operation, be, and the same is hereby, vested in the commissioners subject as in the said Act IV of 1869 is mentioned.

Property vested by Act IV of 1869 in Secretary of State to vest in commissioners.

XXXIII. It shall not be lawful for the commissioners to demise, farm, sell or alienate any power which by or under this Act may become vested in them of levying tolls, fees, wharfage or rent, rates or charges, unless the assent in writing of the said Lieutenant-Governor of Bengal to such demise, farm, sale or alienation shall have been first had and obtained.

Commissioners not authorized to demise, &c., tolls and rates without sanction of Lieutenant-Governor.

XXXIV. The commissioners at a meeting may enter into contracts with any body corporate, registered joint-stock company, or private person, for

Power to contract

the execution or supply by them or him of any works, labor, materials, machines, stores, or for other matters necessary for carrying into effect the trusts and purposes of this Act. Provided always that no contract under or by virtue of which a sum greater than fifty thousand rupees may in any event be payable by the commissioners, shall be valid without the assent in writing of the Lieutenant-Governor of Bengal.

Works to be sanctioned by Lieutenant-Governor.

XXXV. No new work the estimated cost of which shall exceed two thousand rupees shall be commenced by the commissioners, nor shall any contract be entered into by the commissioners in respect of any such new work until a plan and estimate of such work shall have been determined on and approved by the commissioners at a meeting; and in case the estimated cost of any such new work shall exceed ten thousand rupees, it shall not be commenced until such plan and estimate shall have been submitted to the Lieutenant-Governor of Bengal and sanctioned by him in an order published in the *Calcutta Gazette*; and in case the estimated cost of any such new work shall exceed two lakhs of rupees, the said Lieutenant-Governor shall not sanction the same until such plan and estimate shall have been submitted to the Governor-General of India in Council and approved by him.

Commissioners may compound for breach of contract, &c.

XXXVI. It shall be lawful for the commissioners, at a meeting, to compound or compromise for or in respect of any claim or demand arising out of any contract entered into by them under the authority of this Act, or in respect of any action or suit instituted by or against them for such sum of money or other compensation as they shall deem sufficient.

Mode of executing contracts.

XXXVII. The salaried chairman or salaried vice-chairman may, for and on behalf of the commissioners, enter into any contract or agreement whereof the value or amount shall not exceed one thousand rupees, in such manner and form as according to the

law for the time being administered by the High Court of Judicature at Fort William in Bengal would bind him if such contract or agreement were on his own behalf; but every other contract and agreement by or on behalf of the commissioners shall be in wri ing and signed by the salaried chairman or salaried vice-chairman and by two other commissioners, and shall be sealed with the common seal of the commissioners, and no contract nor agreement not executed as in this section is provided shall be binding on the commissioners.

Acquisition of land.

XXXVIII. When the commissioners are unable to acquire by agreement any land or building required for the purposes of this Act, the Lieutenant-Governor of Bengal in his discretion may declare that the land or building is required for a public purpose, and may order proceedings to be taken for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any law in force for the acquisition of land for public purposes. Such land or building when acquired shall be conveyed to the commissioners on their paying the compensation awarded, and all costs connected therewith.

General nature of the works under this Act.

XXXIX. The works to be constructed and carried out by the commissioners under the provisions of this Act may include—

(1) Wharves, quays, stages, jetties, and piers within the port, with all necessary and convenient arches, drains, landing places, stairs, fences, and approaches.

(2) Tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods and merchandize landed or to be shipped.

(3) Laying down moorings for carrying out the purposes of this Act: and the erection of cranes, scales, and all other necessary means and appliances for loading and unloading vessels.

(4) Reclaiming, enclosing, and raising any part of the river bank or the river bed within the port which may be necessary for

the execution of the works authorized by this Act, or otherwise for the purposes of this Act.

(5) The construction and application of dredges and other machines for cleaning, deepening, and improving the river bed within the port.

(6) The construction of such works without the limits of the port as shall be necessary for the protection of works executed under this Act: and all such other works and appliances as may, in the opinion of the commissioners at a meeting, be necessary for carrying out the purposes of this Act.

Power to procure and charge for steam tugs.

XL. It shall be lawful for the commissioners, at a meeting, to provide or procure such steam vessels as they may think fit, and to employ the same or any of them in towing vessels into out of, in, or upon the river Hooghly or in the port, and to make such charges for towage by the said steam vessels as they may deem expedient.

Money to be raised for works.

XLI. In case the Lieutenant-Governor of Bengal shall by an order published in the *Calcutta Gazette* so direct, it shall be lawful for the commissioners, from time to time, to raise money for the estimated cost of any works or arrangements sanctioned by him to such extent, and as he may from time to time direct.

Mode of raising such money.

XLII. Such money shall be raised in such way as the Lieutenant-Governor of Bengal shall by any rules or orders to be by him, from time to time, published in the *Calcutta Gazette*, with the sanction of the Governor-General of India in Council, direct and appoint.

Money raised on debentures to be a first charge on property and rates.

XLIII. In case such money shall be advanced on debentures bearing interest, such interest shall, subject to the provisions of Section VI, be a first charge on all property acquired by the commissioners under or by virtue of this Act, and on all tolls, duties, rates and charges leviable under this Act.

Application of funds raised.

XLIV. All the moneys so to be raised shall be applied by the commissioners in the acquisition of immoveable and moveable property, the payment of

salaries, fees, and expenses, and of interest, and of the cost of works and erections necessary or expedient for carrying out the purposes of this Act.

Application of surplus income.

XLV. Whenever the half-yearly accounts hereinafter directed to be laid before the Lieutenant-Governor of Bengal shall show a surplus for the half-year of income over expenditure, such surplus, or so much thereof as the said Lieutenant-Governor shall think fit, shall be applied by the commissioners in paying off any of the debentures issued under this Act, the principal sum due in respect whereof may be then payable, or any part of the debt due by them to the said Secretary of State, or such surplus may, if the Lieutenant-Governor shall so direct, in whole or part, be invested by the commissioners in the purchase in their corporate name of Government securities, or of their own debentures, and the interest thereof may be accumulated and invested in like manner, with power to the commissioners at any time to dispose of any such securities or debentures and to apply the proceeds and interest thereof, with the sanction of the said Lieutenant-Governor, in or towards any of the purposes of this Act.

Payment of debentures by fresh mortgage of rates.

XLVI The commissioners may at any time, according to the provisions aforesaid, and with the approval of the Lieutenant-Governor of Bengal, raise in any of the ways aforesaid any money that may be required to pay any amount for the time being due by the commissioners under the provisions of this Act.

Form of debenture.

XLVII. All debentures which may be issued under the authority of this Act, shall be in the form contained in the Schedule C) to this Act, and shall be transferable by endorsement, and the right to sue in respect of the moneys secured by any of such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

An estimate of income and expenditure to be submitted annually to the commissioners.

XLVIII. The salaried chairman or salaried vice-chairman shall at a special general meeting, to be held within two months after the commencement of this Act, lay before the commissioners a

separate estimate of the expenditure and income of the commissioners for the period which shall be to come from the commencement of this Act up to the 1st day of April then next ensuing; and shall also at a special general meeting, to be held in the month of February in each year, lay before the commissioners a like estimate of such income and expenditure for the year commencing on the 1st day of April then next ensuing. Every such estimate shall be in such form as the Lieutenant-Governor of Bengal shall, by an order published in the *Calcutta Gazette*, direct. Provided always that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

Revision and passing of estimates.

XLIX. It shall be in the discretion of the commissioners at such meeting by resolution to pass or to reject, or to modify or alter, such estimate and pass such estimate so modified or altered.

Estimate to be approved by Lieutenant-Governor.

L. Every such estimate, when passed by the commissioners in pursuance of the provisions of this Act, shall be submitted to the Lieutenant-Governor of Bengal, and it shall be lawful for such Lieutenant-Governor either to approve of such estimate or to return the same with his remarks thereupon, and the commissioners shall forthwith at a meeting proceed to reconsider such estimate in reference to such remarks and to modify or alter the same, and to resubmit such estimates to the said Lieutenant-Governor; and it shall not be lawful for the commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor.

Power to make supplemental estimate.

LI. It shall be lawful for the commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor, to cause a supplemental estimate for the residue of such year to be prepared and laid before the commissioners at a meeting, and thereupon such proceedings shall be had

as in and by Sections XLVIII, XLIX, and L, are directed to be had with respect to the estimate therein mentioned.

Expenditure to be made in pursuance of estimate.

LII. It shall not be lawful for the commissioners to expend any sum for any purpose not approved in some estimate for the time being in force, save in cases of pressing emergency; nor shall it be lawful for them to expend for any purpose not so approved any sum exceeding two thousand rupees without the assent in writing of the Lieutenant-Governor of Bengal.

Accounts to be audited and examined.

LIII. The accounts of the receipts and expenditure under this Act shall twice in every year be laid before the Lieutenant-Governor of Bengal, and shall be audited and examined. The audit shall be made by such public department or by such auditors as shall from time to time be appointed by the Lieutenant-Governor of Bengal. For the purposes of any audit and examination of accounts under this Act, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same; and if any such person neglect or refuse so to do, or to produce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a penalty not exceeding one hundred rupees. All auditors not being a public department acting under this Act shall in respect of each audit be paid by the commissioners such remuneration as the Lieutenant-Governor of Bengal shall from time to time determine. Provided always that before each audit and examination of accounts under this Act, the salaried chairman or salaried vice-chairman shall give ten days' notice of the time and place at which the same will be made by advertisement in the *Calcutta Gazette* and in a

least two of the daily English newspapers published in Calcutta; and a copy of the accounts to be audited and examined shall be deposited in the office of the commissioners and thereat be open during office hours to the inspection of any person on payment of a fee of one rupee on each occasion of inspection, for seven days before the audit and examination, and all such persons shall be at liberty to take copies of, or extracts from, the same without further payment; and within fourteen days after the audit and examination shall have been completed, the auditors shall report upon the accounts audited and examined, and shall deliver such report to the commissioners at a meeting, who shall cause the same to be deposited in the office of the commissioners and to be published in the *Calcutta Gazette* and in some one or more of the said newspapers.

Public landing places to be provided.

LIV. The commissioners shall make a sufficient number of public landing places from and upon which the public shall be permitted to embark and to land free of charge.

Ghâts and bathing places to be provided.

LV. It shall be lawful for the commissioners, if they shall consider it necessary for the purposes of this Act, to occupy or remove or modify any bathing ghât or landing place within the port, and to prohibit the public from afterwards resorting to or using the same. Provided nevertheless that the commissioners shall reserve, set out, make, and provide for the use of the public such sufficient bathing ghats within the port, not exceeding in number those that may be so modified or removed, as the Lieutenant-Governor of Bengal may direct.

No wharf, quay, &c, to be made without consent of Lieutenant-Governor.

LVI. It shall not be lawful for any person or persons, save the commissioners, to make, erect, or fix below high water-mark within the port any wharf quay, stage, jetty, pier, erection or mooring without the consent in writing of the Lieutenant-Governor of Bengal first had and obtained. Any matter or thing which may be so erected or fixed may be removed by the commissioners: and

the person who shall have so made, erected or fixed any such matter or thing, shall be liable on conviction to a fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which such matter or thing shall have been permitted to remain so made, erected or fixed after notice to remove the same shall have been given to him, and shall also be liable to pay all expenses which may have been incurred by the commissioners in removing such matter or thing. Provided that this section shall not apply to moorings laid down or to be laid down by the conservator of the port.

Power to remove erections.

LVII. In case any wharf, dock, quay, jetty, pier, erection or mooring shall, without the consent in writing of the Lieutenant-Governor of Bengal, be fixed, excavated, erected, or built below high water-mark without the limits, for the time being, of the port, and thereafter the limits of the port shall be extended so as to include the place in which such wharf, dock, quay, jetty, pier, erection or mooring shall have been fixed, excavated, erected, or built, it shall be lawful for the commissioners to remove, fill up, or destroy such wharf, dock, quay, jetty, pier, erection or mooring without making any compensation therefor.

Wharves, &c., to be appointed under Customs' Acts.

LVIII. When the Lieutenant-Governor of Bengal shall, under the provisions of any Act for the regulation of duties of customs, appoint any wharf, quay, stage, jetty, or pier, erected or acquired under this Act for the use of sea-going vessels, to be a wharf for the landing of goods within the meaning of such enactment, the commissioners shall set apart, maintain, and secure on such wharf, quay, stage, jetty, or pier, such portion thereof, or place therein, or adjoining thereto, for the use of the officers of customs, as the Lieutenant-Governor of Bengal shall in that behalf approve or appoint.

Dues for wharves in possession of customs' officers.

LIX. Notwithstanding that any wharf, quay, stage, jetty, or pier, or portion thereof, shall, under the provisions of the last section, have been set apart

for the use of the officers of customs, all dues, rates, tolls, and rents payable in respect thereof, or for the use thereof, or for the storage of goods thereupon, shall be paid and payable to the commissioners or to such person or persons as they may appoint to receive the same.

Commissioners to provide servants, &c., for shipping and landing goods.

LX. The commissioners shall, when thereunto required by the Lieutenant-Governor of Bengal, provide and keep and maintain sufficient servants, and apparatus for the expeditious and convenient landing and shipment of goods from and upon all sea-going vessels coming to the wharves, quays, stages, jetties, or piers erected by them, and shall by their servants land and ship all goods from and upon any such vessel so coming to such wharf, quay, stage, jetty, or pier, unless where there is a legal excuse for refusing to land or ship such goods or such vessel is by reason of the breach or non-observance of any law or regulation not entitled to have her cargo shipped or discharged. Provided that the commissioners shall not be bound to land, ship or moor any single article or package exceeding thirty tons of twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package.

Discharge of liability on commissioners landing goods.

LXI. Whenever any goods shall be landed by the commissioners from any vessel under the powers by this Act conferred on them, they shall, if thereunto required, give to the person in charge of such vessel a receipt in the form or to the effect in Schedule (D) set forth, and may in any such receipt include all goods landed from such vessel during one day, and no person to whom such receipt shall have been so given, nor the master nor owner of the vessel from which the goods in respect of which such receipt shall be given may have been landed, shall be liable for any loss or damage to such goods which may occur after they shall have been so landed.

Power to compel ships to load and unload at wharves, &c., of commissioners.

LXII. When any wharf, quay, stage, jetty, or pier erected under the provisions of this Act shall have been made and completed, together with sufficient warehouses, sheds, cranes and moorings for landing and shipping goods from and upon sea-going vessels, it shall be lawful for the commissioners, with the sanction of the Lieutenant-Governor of Bengal, by a notification published in three consecutive numbers of the *Calcutta Gazette*, to declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods, from and upon sea-going vessels. And from and after such notification and publication it shall be lawful for the commissioners to require the conservator of the port, or other person exercising the rights, powers and authorities of the conservator of the port, from time to time, when there shall be room at such wharf, quay, stage, jetty, or pier, to order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of being laden or unladen by the commissioners, any sea-going vessel which shall not have commenced to discharge a cargo, or which being about to take in cargo shall not have commenced to take in cargo. And if after such order of the conservator of the port or other person aforesaid the owner or master of any such vessel shall either take in or discharge cargo, save and except at such wharf quay, stage, jetty or pier to which such vessel shall have been so ordered, the owner thereof or, in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship or attempt to land or ship any goods in contravention of such order.

When sufficient accommodation, all vessels to load and unload at commissioners' wharves.

LXIII. When a sufficient number of wharves, quays, stages, jetties, and piers shall have been erected under this Act for landing and shipping the cargoes of all sea-going vessels resorting to the port, it shall be lawful for the commissioners with the sanction of the Lieutenant-Governor of Bengal by an order published in three consecutive numbers of the *Calcutta Gazette* to direct that

no goods shall be landed or shipped from or upon any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and by any order in like manner, published to alter, vary or revoke any such order. And whoever shall, after such order has been so published as aforesaid land or ship, or attempt to land or ship, any goods in contravention of such order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order. Provided always, and it is hereby declared, that notwithstanding any thing in this or in Section LXII contained, it shall be lawful for the Lieutenant-Governor of Bengal, by notice in the *Calcutta Gazette*, from time to time, if he shall so think fit, to declare that certain specified vessels or classes of vessels shall be permitted to discharge or ship cargo, or that certain specified goods or cargoes, or classes of goods or cargoes, shall be permitted to be landed or shipped elsewhere, and at such part of the port of Calcutta, and for such time and on such conditions as he may think fit.

Inland vessels to load and unload at places provided for them.

LXIV. When any wharf, quay, stage, jetty or pier for receiving, landing, or shipping goods, from vessels (not being sea-going vessels) shall have been made and completed with all proper appliances in that behalf, it shall be lawful for the commissioners with the sanction of the Lieutenant-Governor, by an order published in three consecutive numbers of the *Calcutta Gazette*, to declare that such wharf, quay, stage, jetty, or pier is ready for receiving, landing and shipping goods from vessels not being sea-going vessels, and in the same way to order that within certain prescribed limits to be therein specified in that behalf, it shall not be lawful to land or ship any goods out of or into, any vessel (not being a sea-going vessel) of any class specified in such order, except at such wharf, quay, stage, jetty or pier. And in the same way to alter, vary or revoke any such order. After such publication as aforesaid, it shall not be lawful for any vessel of such class to

land or ship any goods at any place within the limits so specified, except at such wharf, quay, stage, jetty, or pier, nor for any such vessel while within such limits, to anchor, fasten, or lay within fifty yards of the ordinary low water-mark without the consent of the commissioners. And if after such publication any such vessel shall while within such limits so anchor, fasten, or lay, it shall be lawful for the commissioners to cause the same to be removed out of the said limits, and it shall be the duty of the conservator of the port to aid and assist the commissioners in so removing such vessel. Any person guilty of any breach of the provisions of this section shall be liable to a fine not exceeding fifty rupees for every such breach.

Tolls to be levied.

LXV. The commissioners shall frame a scale of tolls, dues, rates and charges for the landing and shipment of goods from and into sea-going vessels at the wharves, quays, stages, jetties and piers, erected under this Act, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods and for the use of any moorings laid down or acquired under the provisions of this Act or of Act X of 1866, or of Act IV of 1869, respectively passed by the Lieutenant-Governor of Bengal in Council. And also a scale of tolls, dues, and rates for the landing and shipment of goods into and out of any vessel (not being a sea-going vessel), and also a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties, and piers by any such vessel, in case the commissioners shall permit the goods to be landed or shipped by other than their own officers and servants, and also a scale of charges for any services to be performed by the commissioners or their servants in respect of any vessel or goods or for the use of any works or appliances to be provided by the commissioners. Such scale of tolls, dues, rates and charges shall be adopted by a resolution of the commissioners at a meeting, and shall be submitted to the Lieutenant-Governor of Bengal, and after receiving his approval, shall be published by the commissioners in the *Calcutta Gazette*, and may from time

to time, subject to the like approval and publication, be in like manner altered.

Power to impose rates on all goods to provide for payment of debt.

LXVI. If on the preparation of the estimate of any year, it shall appear that the estimated income of the commissioners for such year, after deducting therefrom the estimated expenditure of such year to be incurred under this Act, will be insufficient for the payment of the sums which under the provisions of this Act will be payable during such year to the Secretary of State for India in Council, or if at any time in the course of a year it may appear that the actual income of such portion of the year as may have then elapsed and the estimated income of the residue of such year, after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be so insufficient, then and in every such case, the commissioners shall, upon the requisition in writing of the Lieutenant-Governor of Bengal, from time to time, and to the extent requisite in every case, charge upon all goods landed from or shipped into any vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any wharf, quay, stage, jetty, or pier belonging to the commissioners, such tolls, dues, rates, and charges, in addition to or other than those prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of Section LXV, as will when added to the said income of the year, suffice as nearly as may be for the payment of the said sums in full. Such tolls, dues, rates, and charges shall be fixed and adopted by a resolution of the commissioners at a meeting, and shall be submitted to the Lieutenant-Governor of Bengal, and if the same shall be approved by him, shall be published in the *Calcutta Gazette* and shall forthwith come into operation, and remain in operation until altered or revoked by the commissioners at a meeting with the sanction of the Lieutenant-Governor of Bengal, and shall be leviable and recoverable in like manner as any other tolls, dues, rates, and charges payable under this Act.

On failure of commissioners Lieutenant-Governor may impose such rates.

LXVII. In case the commissioners shall for fifteen days after the receipt by them of any such requisition from the Lieutenant-Governor of Bengal as in Section LXVI is mentioned, neglect or refuse to charge such tolls, dues, rates, and charges, it shall be lawful for the Lieutenant-Governor of Bengal by an order published in the *Calcutta Gazette* to charge such tolls, dues, rates, and charges, and the tolls, dues, rates, and charges mentioned in such order shall have such and the same effect as if they had been fixed and adopted by the commissioners at a meeting and approved by the Lieutenant-Governor and published in the *Calcutta Gazette* as in Section LXVI is mentioned.

Recovery of tolls in arrear.

LXVIII. For the amount of all tolls, charges, dues, and rates duly leviable under this Act in respect of any goods the commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, rates, and dues are fully paid. Tolls, rates, and dues in respect of goods to be landed shall become payable immediately on the landing of the goods. Tolls, rates, and dues in respect of goods to be removed from the premises of the commissioners, or to be shipped for export, shall be payable before the goods are removed or shipped. The lien for such tolls, rates, and dues shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods where such lien exists and has been preserved in the manner hereinafter provided, for primage, and for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force. Provided that nothing in this Act shall affect any power or authority vested in the chief officer of customs under any law for the time being in force.

Goods may be removed to public warehouses.

LXIX. In any case in which goods, without any default on the part of the commissioners, shall have been left for two days on or in any wharf or shed belonging to the commissioners, it

shall be lawful for the commissioners to remove such goods, or cause the same to be removed either to any warehouse belonging to them, or with the consent of the chief officer of customs, to the public warehouses, and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods. Whenever any goods shall be so removed the commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address or left thereat, and shall also publish in the *Calcutta Gazette* notice of such removal and shall specify therein the numbers, marks, and descriptions of such goods so far as the same appear, and the consignee or owner of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods shall be removed to any warehouse or store of the commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse. In case the said goods shall be removed to the public warehouses, then the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses, and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the commissioners, and to the power of sale hereinafter given.

Lien for freight preserved after landing of goods if notice of lien be given.

LXX. If the master or owner of any vessel or his agent, at or before the time of landing from such vessel any goods at any wharf, quay, stage, jetty, or pier erected under this Act, shall give to the commissioners notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner to an amount to be mentioned in such notice, such goods shall continue liable to the same lien (if any) for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the commissioners, or, with the consent of the chief officer of customs, in the public warehouses, at the risk and expense of the

owners of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of lien by payment or release.

LXXI. Upon the production to the officer of the commissioners in that behalf of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the commissioners to permit such goods to be removed without regard to such lien, provided thay shall have used reasonable care in respect to the authenticity of such document.

If tolls not paid, or the lien for freight is not discharged, goods may be sold after the expiration of two months.

LXXII. If the tolls, rates, and dues payable to the commissioners in respect of any goods under this Act, are not paid, or if the lien of the ship-owner for freight where such notice as aforesaid has been given is not discharged, the commissioners may, and in the latter event if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature at such earlier period, being not less than twenty-four hours after the landing of the goods, as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale. Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Calcutta Gazette*, unless the goods are of so perishable a nature as in the opinion of the officer of the commissioners in that behalf to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of. If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post: but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of

the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Application of proceeds of sale.

LXXIII. In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows:—

1st.—In payment of the expenses of the sale.

2ndly.—In payment according to their respective priorities of the liens and claims excepted in Section LXVIII from the priority of the liens of the commissioners for tolls, rates, and dues.

3rdly.—In payment of the tolls, charges, and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the commissioners under this Act in respect thereof.

The surplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent, on his applying for the same; provided such application be made within one year from the sale of the goods, or good reason be shewn why such application was not so made to the satisfaction of the commissioners; and in case such application shall not be so made, nor reason shewn, such surplus shall be held by the commissioners upon trust for the purposes of this Act.

Power to distrain vessels for non-payment of tolls.

LXXIV. If the master of any vessel in respect of which any tolls, dues, rates, penalties, or charges shall be payable under this Act, or any rules or orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand, it shall be lawful for the commissioners to apply to the collector of customs of the port of Calcutta, and such collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the commissioners shall be paid; and in case any part of the said tolls, dues, rates, penalties or charges, or of the costs of the distress or arrestment, or of the keeping

of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the collector of customs may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till tolls paid.

LXXV. If the commissioners shall give to the officer of Government whose duty it shall be to grant the port-clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates or charges or penalties chargeable under this Act, or any bye-laws, rules or orders made in pursuance thereof, against such vessel, or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Compensation for damage to the property of commissioners.

LXXVI. In case any damage or mischief shall be done to any wharves, quays, jetties, piers, or works constructed or acquired by the commissioners under the provisions of this Act by any vessel, through the negligence of any person having the guidance or command thereof, or of any of the mariners or persons employed therein, it shall be lawful for any magistrate of the town of Calcutta, on the application of the commissioners, to issue a summons to the master of or agent for such vessel requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief. If at the time appointed in the summons, and whether the person summoned shall appear or not, it shall be made out to the satisfaction of the magistrate that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, it shall be lawful for the magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the

vessel may be seized and sold to cover the expenses of and attending the execution of the distress and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the commissioners out of the proceeds of the distress. Provided that if at the time of the damage or mischief the vessel was under the orders of a duly authorized officer belonging to the pilot service or the harbour master's or master attendant's department, the case shall not be cognizable by the magistrate under this section.

Sanitary provisions.

LXXVII. Any person who wilfully deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, refuse, or filth of any kind, or any animal matter or any broken glass, earthenware or rubbish, in or upon any wharf, quay, stage, jetty, or pier belonging to the commissioners, or in or upon any part of the river bank within the port, shall be liable to a fine not exceeding ten rupees for each offence.

Limits of the port of Calcutta how to be defined.

LXXVIII. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to define the limits of the port for the purposes of this Act, and from time to time, by any notice to be in like manner published, to alter, vary, or revoke the same or any part thereof, and by the same or any other order to be in like manner published to define other limits of the port, and the limits so defined in any such order shall, while such order is in force, be for the purposes of this Act the limits of the port. Provided, however, that until such order shall be published, the limits of the port as for the time being defined by a declaration made by the Government of Bengal under the provisions of Act XXII of 1855, passed by the Legislative Council of India, shall for the purposes of this Act be the limits of the port.

Jurisdiction as to offences committed within Calcutta.

LXXIX. Every charge of an offence against any provision of this Act, or of any rule, order or bye-law made under the provisions of this Act, alleged to have been committed within the town of Calcutta, shall be heard and determined in a summary way by some police magistrate of Calcutta, according to the

provisions of the law for the time being regulating the procedure of the court of such police magistrate.

Jurisdiction as to offences committed out of Calcutta.

LXXX. Every charge of an offence against the provisions of this Act, or of any rule, order, or bye-law made under the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure shall apply to the trial of every such charge.

Regulations as to buoys and moorings.

LXXXI. All regulations under and provisions of the said Act XXII of 1855, passed by the Legislative Council of India with regard to buoys and moorings, shall extend to the buoys and moorings laid down by or belonging to the commissioners. The conservator of the port and his assistants, in carrying out and enforcing such regulations, shall act under the direction of the commissioners.

Commissioners empowered to make bye-laws.

LXXXII. It shall be lawful for the commissioners at a meeting from time to time to make bye-laws for the guidance of persons employed by them under this Act; for the safe and convenient use of the wharves, quays, jetties, sheds, warehouses, tramways, and other works constructed by them under the authority of this Act; for the use of the public landing places constructed by them; for the reception and removal of goods brought within the premises of the commissioners; for declaring the procedure to be followed by the commissioners in taking charge of goods which shall have been damaged before landing, or shall be alleged to be so damaged; for keeping clean the river, the river bank, and the works of the commissioners, and for preventing filth or rubbish being thrown therein or thereon; for the mode of payment of the tolls, dues, rates, and charges leviable under this Act; for regulating, declaring, and defining

the wharves, quays, jetties, stages, and piers on which goods shall be landed from vessels and shipped on board vessels; for regulating, defining, and declaring the places and stations on which vessels shall be fastened or moored, or shall lie or remain; or otherwise for carrying out the purposes of this Act; and from time to time to vary, alter, or revoke any such bye-law so made by them.

Approval of bye-laws.

LXXXIII. No bye-law or alteration or revocation of a bye-law shall have effect until the same shall have been approved by the Lieutenant-Governor of Bengal by an order published in the *Calcutta Gazette*, and no bye-law shall be approved by the said Lieutenant-Governor until it shall have been published for three weeks successively in the *Calcutta Gazette*, and when such bye-law shall have been so approved, all courts of law shall take judicial notice thereof.

Lieutenant-Governor may revoke and annul bye-laws.

LXXXIV. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to revoke, annul, and make void any bye-law made and published under the provisions of Section LXXXII and Section LXXXIII.

Penalty for infringement of bye-laws.

LXXXV. No penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the commissioners to the person guilty of such infringement.

Bye-laws and tables of tolls to be exhibited.

LXXXVI. The commissioners shall cause the said bye-laws and the tables of tolls, dues, rates, and charges leviable to be printed in the English and Bengalee languages and characters, and to be hung up and kept hung up at the several wharves, quays, and jetties, and other convenient places on the premises of the commissioners.

Notice of action.

LXXXVII. No suit shall be brought against any person for any thing done, or purporting or professing to be done, in pursuance of this Act, after the expiration of three months from the day on which the cause of action in such suit shall have arisen.

Government may order a local survey.

LXXXVIII. The Lieutenant-Governor of Bengal may at any time order a local survey and examination of any works of the commissioners under this Act, or the intended site thereof, and the cost of such survey and examination shall be borne and paid by the commissioners out of the moneys in their hands by virtue of this Act.

Government may restore or complete works.

LXXXIX. If the commissioners shall allow any work constructed by them under this Act to fall into disrepair, or shall not complete any work commenced by them or included in any estimate as aforesaid submitted and approved of, and shall not after due notice in writing, proceed effectually to repair or complete such work under this Act, it shall be lawful for the Lieutenant-Governor of Bengal to cause such work to be restored, completed, or constructed either by the officers of Government or any private contractor, and the cost of any such restoration, completion, or construction shall be a charge on the works, and a debt due from the commissioners to the Secretary of State for India in Council.

Mode of realizing money due to the Secretary of State.

XC. If at any time any money which may for the time being be payable under the provisions of this Act to the Secretary of State for India in Council for interest or for any instalment or principal shall be due and unpaid for one month after the same shall have become payable, it shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to appoint some person to receive rents, issues, and profits, tolls, rates, charges, and other income which the commissioners may under this Act be entitled to receiv and to

apply the same in discharge of the amount so payable; and the person so to be appointed shall have, for the recovery of such rents, issues, profits, tolls, rates, charges and income, all and singular the powers and authorities herein and hereby conferred on the commissioners for the purposes aforesaid.

Government may take possession and revoke powers of commissioners.

XCI. If at any time it shall appear to the satisfaction of the Lieutenant-Governor of Bengal that the works intended to be accomplished under this Act have not been, and are not likely to be, properly carried out, or (if carried out) have not been, and are not likely to be, properly maintained by the commissioners, it shall be lawful for the said Lieutenant-Governor to give six months' notice by order published in the *Calcutta Gazette*, that unless within that period the commissioners shall take measures to the satisfaction of the said Lieutenant-Governor for the carrying out or proper maintenance of the said works, the powers by this Act conferred on the commissioners will at the end of such period be withdrawn and revoked, and the Government of Bengal may assume possession and management of the works (if any) already constructed, and on the expiration of such period of six months by an order in like manner published to declare such powers revoked. By such last mentioned order, and without the necessity of any conveyance, all immoveable, and moveable property, all rights of levying and recovering tolls, dues, and rates, all benefit of contracts, and all rights of suit, which at the time may be vested in the commissioners under this Act, shall be transferred to and vested in the Secretary of State for India in Council, and the rights of all creditors of the commissioners under this Act shall continue as against the said Secretary of State in Council to the extent of the property so transferred to and vested in him.

Powers of Justices over river bank withdrawn.

XCII. From and after the commencement of this Act the powers in and by Sections XCI, CLXXXIV, and CLXXXV of Act VI of 1863, passed by the Lieutenant-Governor of Bengal in

Council, or any of them, conferred upon the Justices of the Peace for the Town of Calcutta, shall absolutely cease and determine with respect to any part of the river or river bank of the port.

Repeal of Acts.

XCIII. From and after the commencement of this Act, Act X of 1866 and Act IV of 1869, respectively passed by the Lieutenant-Governor of Bengal in Council, shall stand repealed.

Commencement of Act.

XCIV. This Act shall commence and take effect from such day as shall be appointed for the purpose by an order of the Lieutenant-Governor of Bengal published in the *Calcutta Gazette*.

Power to make commissioners conservators of port.

XCV. It shall be lawful for the Lieutenant-Governor of Bengal, with the previous sanction of the Governor-General of India in Council, at any time after the passing of this Act, by an order published in the *Calcutta Gazette*, to confer on the commissioners the powers of the conservator of the port of Calcutta within the port and such portions of the navigable rivers and channels leading thereto, and connected therewith, as shall be specified in such order, and from time to time, by any other order to be in like manner published, to confer on the commissioners the same powers in any other portion of the said river and channels; provided always that no such order shall be made without the consent of the commissioners at a meeting.

Port-dues may be made payable to commissioners.

XCVI. Every such order may direct that any of the port-dues or fees payable under the provisions of any Act authorizing the levy or requiring payment of port-dues or fees from or in respect of vessels entering or leaving the said port, or being or lying therein, or using the said port, shall be received by the commissioners, and shall also specify the amount (if any) of charge to which the commissioners shall be liable in respect thereof.

XCVII. From and after the publication of any such order, the commissioners shall have within the port and the portion of the said navigable rivers and channels specified in any such order all and singular the rights, powers, and authorities in and by Act XXII of 1855, passed by the Legislative Council of India, or any other Act, conferred on the conservator of the port, and may exercise such rights, powers, and authorities by any officer to be by them thereunto appointed, and the said rights, powers, and authorities shall not be exercised by any other person within the said port or portion of the said navigable rivers and channels.

Commissioners to exercise powers of conservator.

XCVIII. From and after the publication of any such order, all the port-dues and fees in and by such order directed to be received by the commissioners and payable in respect of any vessel entering or leaving the port, or being therein, shall be payable to the commissioners, and shall be deemed to be a portion of their income, and shall be included in their annual estimates and accounts.

Commissioners to receive port-dues.

XCIX. From and after the publication of any such order, the commissioners may execute within the port and the portion of such navigable rivers and channels in such order mentioned, such works as they at a meeting may determine, and all the powers, authorities, restrictions, and provisions contained in this Act in respect to the works by the Act authorized shall apply to such works and to the sanction thereof, the estimates therefor, and the expenditure thereon

Powers to make improvement.

C. If in any such order the Lieutenant-Governor of Bengal shall specify any amount of charge to which the commissioners shall be liable in respect of the port-dues and fees to be received by them, the same shall be deemed to be a sum of money advanced by the Secretary of State for India in Council under the provisions

Charge to be included in debt to Government.

of this Act, and to be due on the day upon which such order shall take effect.

Short title.

CI. This Act may be called "The Calcutta Port Improvement Act, 1870."

SCHEDULE A.—(*referred to in Section VII.*)

Details of the several sums to be taken as due from the commissioners for making improvements in the port of Calcutta to the Secretary of State for India in Council.

	Estimated cost of work.
	Rs.
Improvement of the river bank at Calcutta near Juggernath Ghât for the accommodation of the country boat traffic	1,17,036
Constructing four screw pile jetties with steam cranes and goods sheds on the strand bank, Calcutta ...	5,28,500
Making lots Nos. 13 to 24 on the strand bank, Calcutta, available for export traffic	11,913
Constructing two screw pile jetties with tramways, cranes, and hoists, opposite the existing north Custom House shed on the strand bank, Calcutta	2,15,415
Constructing offices, &c., for the use of the officers employed on the new jetties on the strand bank, Calcutta	12,010
Supplying two steam hoists for single crane jetties, Nos. 1 and 3, on the strand bank, Calcutta ...	4,585
Minor works and expenses, contingent and establishment charges, and cash balance made over	1,10,541
Total ...	1,00,000

SCHEDULE B.—(*referred to in Section VIII.*)

Sums to be paid in discharge of the principal of the amount by Section VIII, declared to be due from the commissioners to the Secretary of State, and times fixed for such payment :—

				Rs.
1st	August	1873	...	1,00,000
"	"	1876	...	1,00,000
"	"	1879	...	1,00,000
"	"	1882	...	1,00,000
"	"	1885	...	1,00,000
"	"	1888	...	1,00,000
"	"	1891	...	1,00,000
"	"	1894	...	1,00,000
"	"	1897	...	1,00,000
"	"	1900	...	1,00,000

SCHEDULE C.—(*referred to in Section XLVII.*)

FORM OF DEBENTURE.

The commissioners for making improvements in the port of Calcutta.

The 18 .

No.

By virtue of the Act No. V of 1870, of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations, entitled "an Act to appoint commissioners for making improvements in the port of Calcutta," we, the commissioners for making improvements in the port of Calcutta, in consideration of the sum of Rupees paid to us by A. B. of promise to pay to the said or order the said sum of Rupees after the date hereof together with interest at the rate of per centum per annum payable half-yearly on the day of and the day of

(*Signatures of the Chairman or Vice-Chairman and two Commissioners.*)

LEGISLATIVE SECRETARIAT LIBRARY.

SCHEDULE D.—(*referred to in Section LXI.*)

FORM OF RECEIPT FOR GOODS.

By the commissioners for making improvements in the port of Calcutta.

Landed during the day of from the by the commissioners for making improvements in the port of Calcutta the noted in the margin (*if there be any apparent injury this is to be stated*), contents and state of the contents unknown.

For the commissioners for maki g improvements in the port of Calcutta.

A. B.

CALCUTTA,
day of 18 .